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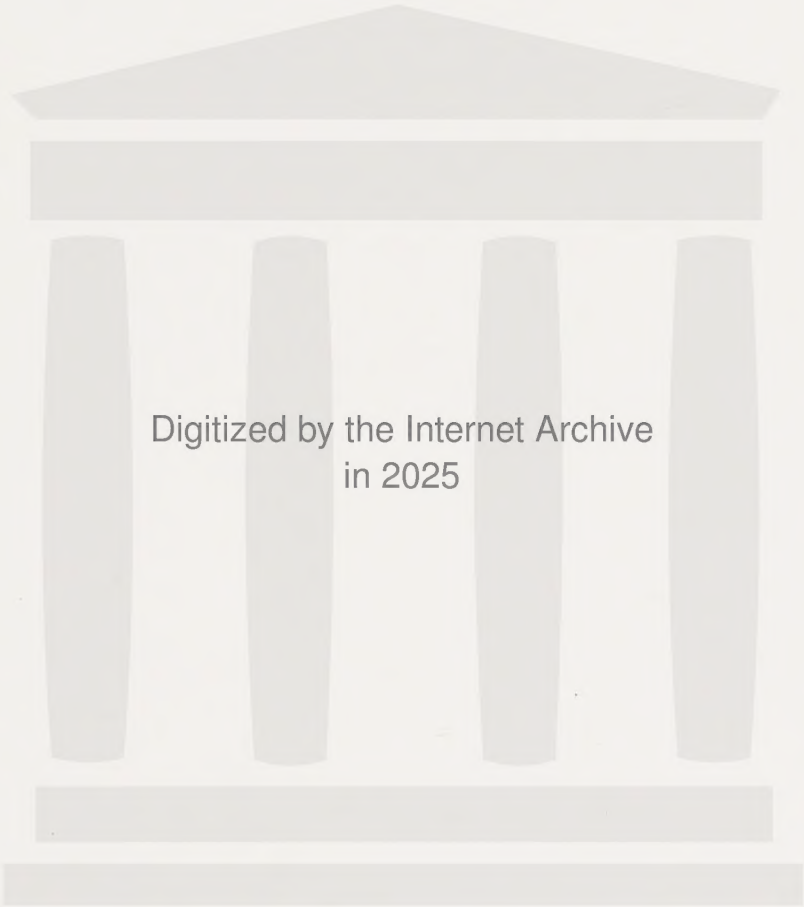
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The Development of the Priestly Calendars (I)

The Daily Sacrifice and the Sabbath

Alan Cooper
Jewish Theological Seminary/Union Theological Seminary

Bernard R. Goldstein
University of Pittsburgh

In a *JAOS* 110 (1990) article, we described the development of the early Israelite and Judean calendars, relating calendrical adaptation and innovation to the literary history of the Pentateuch. In the present paper, we begin an analysis of the (P)riestly and (H)oliness calendars. Building on recent refinements in the delineation of P and H texts in the Pentateuch, we attempt to establish criteria for distinguishing between the P and H layers of the priestly calendrical texts, and to ascertain the relationship between those texts and other sources. The specific topics that we consider here are, 1. the origin of the daily sacrifice, and 2. the development of the Sabbath as a public cultic occasion.

The Israelite festival calendars continue to fascinate scholars for many reasons, not the least of which is the light that they shed on both the history of Israelite religion and the literary history of the Bible. In 1990, we published a general statement about the early history of the festivals, reconstructing as best we could the primitive calendars of Judah and Israel, and indicating how their originally disparate elements had been amalgamated and transformed by successive redactors. In that paper, we concentrated on the activity of R^{JE}, whom we continue to regard as the first "author" of the Torah.[1]

We do not take the sigla "J" and "E" to designate prior compositions; they denote, rather, oral and/or written traditions that pre-existed R^{JE} – "J" referring to old Judean material, and "E" to old Northern material. As we have put the matter elsewhere:

> In the most recent refinements of the tradition-historical approach, instead of referring to the compilation of documentary sources, one alludes

1 "The Festivals of Israel and Judah and the Literary History of the Pentateuch," *JAOS* 110 (1990) 19–31. In that paper and elsewhere, we have retained the standard source-critical sigla, redefining them in the light of our compositional theory.

> to "traditions" that have been assembled artfully and purposefully into "compositions." The character of the traditions prior to their use within compositions may be of interest, but it has only slight critical relevance. It cannot be determined whether the traditions were orally transmitted, preserved as discrete written texts, or incorporated into earlier, now-lost compositions – and the three possibilities are not mutually exclusive.[2]

From a tradition-historical perspective, then, "J" and "E" do not denote books, but rather the earliest *traditions* that are discernible within later *compositions*. All of the extant JE material in the Torah is *embedded*, which is to say that it has been given its context by subsequent authors. While the earlier components may be identifiable within later compositions, their function and meaning are determined by the discourses to which they now belong. Prior contexts are retrievable only by speculation.[3]

R^{JE}, as we described him, was a Northern author working in Judah during the second third of the eighth century, the period of Northern suzerainty over Judah. Essential to his program, we argued, was the imposition of Northern law on Judah, which entailed (among other things) the importation of the Northern calendar, with special emphasis on the festival of Matsot, into Judah. In a subsequent paper, we undertook a traditio-historical investigation of Matsot, accounting for both its origin in Northern family religion and its transformation into the characteristic festival of Northern national religion.[4]

Substantial revision of R^{JE} was undertaken, in our view, as the North lost its hegemony over Judah. While the North came under increasing pressure from Assyria, Judah apparently was emboldened to institute religious reforms, beginning in the reign of Ahaz, and increasing in scope and intensity in Hezekiah's time. We have suggested that Hezekiah commissioned P "to be a revision of R^{JE} in the light of his reform program," and that the primary intent

2 "Biblical Literature in the Iron(ic) Age: Reflections on Literary-Historical Method," *HS* 32 (1991) 45–59 (quotation on 53).

3 In formulating these views, we are indebted to the pioneering work of Rolf Rendtorff, *Das Überlieferungsgeschichtliche Problem des Pentateuch*, BZAW 147 [Berlin: De Gruyter, 1977]; English trans., *The Problem of the Process of Transmission in the Pentateuch* JSOTS 89 [Sheffield: JSOT, 1990]); also to the important contributions of Rendtorff's student, Erhard Blum: *Die Komposition des Vätergeschichte* WMANT 57 (Neukirchen-Vluyn: Neukirchener, 1984); *Studien zur Komposition des Pentateuch* BZAW 189 (Berlin: De Gruyter, 1990). Idiosyncracies of terminology should not obscure important points of agreement between our approach and Blum's, although we disagree fundamentally in the matter of dating. We approve, in particular, of his two-fold compositional scheme, and find rough correspondence between his "KD" and "KP" and our R^{JE} and H, respectively. See, more recently, William Johnstone, *Chronicles and Exodus: An Analogy and its Application*, JSOTSup 275 (Sheffield: Sheffield Academic Press, 1998). Johnstone's notion of a Dtr-recension underlying the present P-recension of Exodus 19–40 is, once again, compatible with our R^{JE} and H.

4 "Exodus and Matsot in History and Tradition," *Maarav* 8 (1992) 15–37.

of the author of P was to assert the authenticity of the Jerusalem cult through a combination of archaic Judean revivals, reworkings of R^{JE}, and outright innovations. Some Northern elements were extirpated in Hezekiah's reform (notably the Nehushtan, 2 Kings 18:4), but many were retained or adapted to the new situation. In the present paper, we would like to describe the priestly trajectory with respect to the festivals from its beginnings in P through its culmination in H, taking into account some of the interaction of that trajectory with other relevant traditions.

Before we begin, two comments on recent developments in Pentateuchal literary-historical study are in order. The first concerns what has been dubbed "pan-deuteronomism." In his contribution to a recent collection of essays on that topic, Robert Wilson notes that "some scholars are now seeing the Deuteronomists, writing presumably in the exile or later, as the final editors or shapers or even authors of the present form of the Torah."[5] Our view, on the contrary, is that many of the alleged D or Dtr intrusions in the Tetrateuch, including such parade examples as Exodus 13 and 32 and Numbers 14,[6] are in fact R^{JE} texts. The affinities between R^{JE} and D/Dtr are not surprising, once we realize that D and Dtr represent the continuation of the R^{JE} trajectory, with its provenance in the North. Our R^{JE}, in other words, is the author whom others have dubbed the "proto-Deuteronomist," so the appearance of material in the Tetrateuch that looks deuteronomic or deuteronomistic is unsurprising.

This revised view of R^{JE} has significant ramifications for many ongoing disputes in biblical criticism. Any discussion of the calendar, for example, must take the relative dating of Exod 34:11–26 into account. The assignment of that text to J is no longer credible, and now seems more like an a priori assumption than a conclusion based on analysis. Any lingering doubts should have been eliminated by Shimon Bar-On's demonstration that the festival legislation in Exodus 34 is (in his words) "a midrashic revision" of Exodus 23.[7] Bar-On also joins a long line of scholars going back to Wellhausen and Kuenen in noting "Deuteronomic elements, both linguistic and theological," in Exodus 34. It remains a point of contention, however, whether those elements indicate that Exodus 34 is relatively early (that is, proto-deuteronomic) or late (that is, deuteronomistic).[8]

There is little doubt that the festival pericopes in both Exodus 34 and

5 Robert R. Wilson, "Who Was the Deuteronomist? (Who Was Not the Deuteronomist?): Reflections on Pan-Deuteronomism," in Linda S. Schearing and Steven L. McKenzie, eds., *Those Elusive Deuteronomists: The Phenomenon of Pan-Deuteronomism*, JSOTSup 268 (Sheffield: Sheffield Academic Press, 1999) 67–82 (quotation on 71).

6 See, for example, Suzanne Boorer, *The Promise of the Land as Oath: Key to the Formation of the Pentateuch*, BZAW 205 (Berlin: De Gruyter, 1992).

7 "The Festival Calendars in Exodus xxiii 14–19 and xxxiv 18–26," *VT* 48 (1998) 161–93 (quotation on 184).

8 This issue was the topic of a panel at the June, 2000 meeting of the Wissentschaftliche Gesell-

Deuteronomy 16 are midrashic extrapolations of Exodus 23. The question is: are these two independent extrapolations or is one dependent on the other? If one is dependent on the other, we must determine the direction of the dependence. We are not concerned with Exodus 34 in its entirety, since the chapter in its present form may well be composed of earlier and later material. Our view is that its festival legislation belongs to the earlier material embedded in a later context.[9] The evidence may be summarized as follows:

1. Deuteronomy 16 requires rest on the seventh of Matsot. The only basis for that requirement would be a midrashic conflation of laws that are found separately in Exodus 13 and Exodus 34, respectively. For the details, see below.

2. Exodus 23 has Matsot without Pesach, reflecting the early Northern state of affairs. Exodus 34 provides Deuteronomy with a Northern (R^{JE}) precedent for combining the two. On the one hand, the source for the Pesach/Matsot combination in Deuteronomy 16 cannot be P/H, because the festival retains its ancient New Moon dating in Deuteronomy, in contrast to the Full Moon dating in P/H. On the other hand, we do not think that the combination is a deuteronomic invention.[10]

3. If Exodus 34 depended on Deuteronomy 16, we would expect to find mention of Sukkot in Exodus 34, since that term first appears in Deuteronomy 16. This point would seem to negate the argument that the use of Shavuot in Exodus 34 necessarily depends on the occurrence of that term in Deuteronomy 16, especially since the elaboration of Shavuot in Deuteronomy has no parallel in Exodus 34 (or 23).

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schaft für Theologie. The proceedings were published in Matthias Köckert and Erhard Blum, eds., *Gottes Volk am Sinai: Untersuchungen zu Ex 32–34 und Dtn 9–10* (Gütersloh: Chr. Kaiser, 2001). See especially David Carr, "Method in Determination of Direction of Dependence: An Empirical Test of Criteria Applied to Exodus 34,11–26 and its Parallels," 107–40. We would like to thank Professor Carr for sharing his work with us prior to its publication.

9 For a strong argument to the contrary, see Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford, 1997) 69–71. Levinson takes us to task for misrepresenting the argument of H. L. Ginsberg in one of our earlier papers. In his view, our error costs us our "essential support" for stating that the festival pericope in Exodus 34 predates the one in Deuteronomy 16. (See also Jacob Milgrom, *Leviticus 23–27*, AB 3B [New York: Doubleday, 2001] 2070. Milgrom follows Ginsberg in stating that the festival legislation in Exodus 34 was subjected to revision by "the deuteronomic redactor.") Irrespective of our citation of Ginsberg, however, we think that the relatively early date for Exod 34:18–26 can be sustained on exegetical grounds, which we set forth briefly in the present study.

10 Levinson contends that the "authors of Deuteronomy radically transformed the original observances of Passover and Unleavened Bread" (*Deuteronomy*, 72). Our view is that while there are innovative elements in Deuteronomy, there is already some precedent for them in R^{JE}–in the juxtaposition of Exodus 12 and 13 (in their pre-P/H forms), as well as in the festival pericope in Exodus 34.

4. The concept of cultic rejoicing expressed by forms of שמח in Deuteronomy 16, also elsewhere in Deuteronomy (e.g., 12:7) and in later texts such as Leviticus 23:40, Num 10:10, and Nehemiah 8:12, 17, appears to be a D innovation, and is not in evidence in R^{JE} or in Exod 34.

From a tradition-historical point of view, then, we see a "northern" trajectory running from the "E" material in Exodus 23 through R^{JE} in the festival legislation of Exodus 34, D in Deuteronomy 16, and ultimately Dtr. But we still see little evidence of D/Dtr intrusion in the Tetrateuch.[11]

Our second preliminary point concerns Israel Knohl's work on the Priestly trajectory.[12] Although we consider Knohl's reordering of P and H to be sound, we disagree with him on many points of attribution and dating. In particular, we do not accept his claim for the high antiquity of both of these traditions. We continue to place P in the eighth century, although we now recognize that much less of P survives than previously had been thought. The reworking of P by H, which we take to be predominantly post-exilic, is thorough and pervasive, so that great care has to be exercised in disentangling P material from what is essentially H's composition.

Irrespective of the question of dating, then, we find considerable merit in Knohl's reassignment of much P material to H. In our 1990 paper, for example, we confidently ascribed sabbatical typology to P, suggesting that P had subsumed the old annual festival cycle to a weekly cycle predicated in God's creation of the world in seven days. In the light of Knohl's work and other more recent studies,[13] that crucial development in biblical thought now must be assigned to H rather than P. Many consequences flow from that reassignment, the most significant being that the creation ideology of P may be disengaged from the cultic Sabbath of H and its concomitant ideology. We will return to this point shortly.

We have argued that the old Judean calendar entailed complementary festivals in the fall and spring, namely Pesach and Kippurim. In their most ancient form, these festivals featured the apotropaic rites of a pastoral society at the critical times of transhumance – rites that are preserved vestigially in the festivals' later manifestations. R^{JE} conjoined Pesach to Matsot, the festival of national identity, and probably assimilated Kippurim within the fall harvest festival. In

11 For a similar argument concerning "D-like material" in Exodus 12, See William H. C. Propp, *Exodus 1–18*, AB 2 (New York: Doubleday, 1999) 376.

12 Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995). See also Milgrom's lengthy rejoinder, *Leviticus 23–27*, 2440–46.

13 See esp. Yairah Amit, "Creation and the Calendar of Holiness," in Mordechai Cogan, et al., eds., *Tehillah le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg* (Winona Lake, Ind.: Eisenbrauns, 1997) 13*–29* (Heb.); Edwin Firmage, "Genesis 1 and the Priestly Agenda," *JSOT* 82 (1999) 97–114.

the context of Hezekiah's "Judean revival," P restored the old Judean festivals to prominence, integrating them into a Jerusalemite mythic pattern of cosmogonic creation, temple building and enthronement. This pattern is, as Moshe Weinfeld has shown, ubiquitous in the ancient near east, and is embedded in Genesis 2–9.[14] Its literary components and some of its cultic aetiologies may be discerned in the flood story and in various poetic texts, including Psalms 24, 29, 65:6 ff., 89:10 ff., 93, 96, and Amos 5:8. For example:[15]

6 O God, our deliverer,
in whom all the ends of the earth
and the distant seas
put their trust;

7 who by His power fixed the mountains firmly,
who is girded with might,

8 who stills the raging seas,
the raging waves,
and tumultuous peoples. (Ps. 65:6–8)

2 Your throne stands firm from of old;
from eternity You have existed.

3 The ocean sounds, O LORD,
the ocean sounds its thunder,
the ocean sounds its pounding.

4 Above the thunder of the mighty waters,
more majestic than the breakers of the sea
is the LORD, majestic on high. (Ps. 93:2–4)

A frustrating aspect of P's flood story is that it includes apparently aetiological datings that lead nowhere. The "fountains of the great deep burst apart" on Month 2, Day 17 (Gen 7:11); the flood waters swell for 150 days (7:24) and then ebb in a like amount of time (8:3); the ark rests on Month 7, Day 17 (8:4); and the mountaintops appear on Month 10, Day 1 (8:5). We surmise that these dates figured in a priestly festival calendar that has been superseded and obscured. What does seem clear is that the underlying calendar of the flood story shows Egyptian influence: Day 17 would correspond to Full Moon, assuming lunar

14 Moshe Weinfeld, "Sabbath, Temple and the Enthronement of the Lord – The Problem of the Sitz im Leben of Genesis 1:1–2:3," in A. Caquot and M. Delcor, eds., *Mélanges bibliques et orientaux en l'honneur de M. Henri Cazelles* (Kevelaer: Butzon & Bercker, 1981) 501–12.

15 Here and elsewhere we cite NJPS, sometimes with minor modifications.

months that begin, in Egyptian fashion, on the day following last visibility; and the 150-day periods are multiples of the conventional Egyptian 30-day month.

The Daily Sacrifice

Of particular interest is the narrative in Gen 8:20–22. In response to Noah's sacrificial offering, God determines never again to destroy all of humanity, "so long as earth endures, seedtime and harvest, cold and heat, summer and winter, day and night." The narrative and its accompanying ditty clearly supply an aetiology for sacrificial offerings: the "pleasing odor" of the sacrifices finds favor with God and quells his anger. The poetic fragment indicates the occasions for these recurrent offerings: the first three pairs delineate the two-season Judean year, which we described in our previous study. The transition times between the two seasons are marked by the ancient annual festivals, קציר (reaping) and אסיף (ingathering). The fourth pair – "day and night" – is surprising in this context. In our view, it provides an aetiology for the twice-daily sacrifice that is prescribed in Exod 29:38–42 and Num 28:2–8.

The Bible portrays the institution of the daily sacrifice as a Jerusalemite innovation. 2 Kgs 16:10–13 describes Ahaz's replication in Jerusalem of an altar that he had seen in Damascus:

> 10 When King Ahaz went to Damascus to greet King Tiglath-pileser of Assyria, he saw the altar in Damascus. King Ahaz sent the priest Uriah a sketch of the altar and a detailed plan of its construction. 11 The priest Uriah did just as King Ahaz had instructed him from Damascus; the priest Uriah built the altar before King Ahaz returned from Damascus. 12 When the king returned from Damascus, and when the king saw the altar, the king drew near the altar, ascended it, 13 and offered his burnt offering and meal offering; he poured his libation, and he dashed the blood of his offering of well-being against the altar.

Ahaz's altar became the venue for "the morning burnt offering and the evening meal offering" (v. 15), which appear, in themselves, to be innovations.[16] Despite its dubious origin, the altar apparently remained in continuous use, surviving the reforms of both Hezekiah and Josiah. The fate of this altar, then, was markedly different from that of other cult symbols of allegedly foreign origin (at least some of which were, in fact, Northern). The Rabshakeh notes Hezekiah's destruction of the local shrines and altars, and then quotes the king as insisting that "you must worship only at this altar in Jerusalem" (2 Kgs 18:22). Similarly,

16 On the burnt offering as an innovation for the Jerusalem cult, see Wolfgang Zwickel, "Zur Frühgeschichte des Brandopfers in Israel," in Wolfgang Zwickel, ed., *Biblische Welten: Fest-*

Josiah "defiles the shrines where the priests had been making offerings" (2 Kgs 23:8), but not, evidently, the altar in Jerusalem (see v. 9).

We see no reason to doubt the attribution of this altar to Ahaz, and consider its construction to mark the terminus a quo for P.[17] The account of Ahaz's reign in 2 Chronicles 28 differs markedly from that in 2 Kings 16, and a salient difference is the absence of Ahaz's altar from Chronicles. That omission, however, is perfectly understandable in view of 1 Chr 16:40, according to which David instructed Zadok to institute the twice-daily sacrifices:

> 37 He left . . . 39 also Zadok the priest and his fellow priests before the Tabernacle of the LORD at the shrine which was in Gibeon; 40 to sacrifice burnt offerings to the LORD on the altar of the burnt offering regularly, *morning and evening*, in accordance with what was prescribed in the Teaching of the LORD with which He charged Israel.

Ahaz's daily ritual, in contrast to what David (and "the Teaching of the Lord") allegedly prescribed, did not entail animal offerings both morning and evening, but a single animal offering in the morning (עלת הבקר), and then a meal offering in the evening (מנחת הערב). The same pattern may be observed in Lev 6:2–9 (P), which contains two consecutive sets of instructions – the first for a single burnt offering placed on the altar in the morning (6:5), and the second for the meal offering (vv. 7 ff.) at an unspecified time.[18] Similarly, Ezek 46:13–15 requires a single burnt offering each morning, accompanied "every morning regularly" by a meal offering.

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schrift für Martin Metzger zu seinem 65. Geburtstag, OBO 123 (Fribourg: Editions universitaires, 1993) 231–48. Zwickel's study suggests a Northern origin for the offering, which subsequently spread to Judah. We do not think that Amos 4:4 provides a Northern precedent for daily sacrifice, although some commentators have interpreted it that way. For the alternatives, see Meir Weiss, *The Book of Amos* (2 vols.; Jerusalem: Magnes, 1992) 1.108–9. Weiss decisively rejects the notion that there is any reference here to a recurrent daily sacrifice. Rather, 4:4–5 is a parody of a private pilgrimage rite.

17 In fact, the story of Ahaz's altar may have been drawn from a priestly source rather than a royal chronicle. See the discussion in Mordechai Cogan and Hayim Tadmor, *II Kings*, AB 11 (New York: Doubleday, 1988) 192–93. The favorable account of the altar is now combined with Dtr's criticism of the king's alleged apostasy (2 Kgs 16:2–4), yielding a confusing and equivocal account of his reign.

18 The natural tendency (going back to rabbinic literature) is to assimilate the legislation in Lev 6:2–6 with that in Exod 29:38–41, and assume that the Leviticus text refers to two daily sacrifices. See, e.g., Baruch Levine, *Leviticus* (JPS Torah Commentary; Philadephia: Jewish Publication Society, 1989) 35; Jacob Milgrom, *Leviticus 1–16*, AB 3 (New York: Doubleday, 1991) 383. But the fact remains that the text explicitly mentions only a morning offering (Lev 6:5), and not one in the evening.

Our contention is that the three aforementioned texts – 2 Kings 16, Leviticus 6, and Ezekiel 46 – independently confirm that P's daily sacrifice was a once-a-day burnt offering either accompanied by, or followed by, a meal offering. The twice-daily offering was a later development; indeed, 1 Chr 16:40 is probably an aetiology for the innovation, and Gen 8:22 follows suit. When we turn to the Torah texts that prescribe twice-daily sacrifices, we note that the prescriptions in Exodus 29 are virtually identical to those in Numbers 28:

Exodus 29	*Numbers 28*
38 Now this is what you shall offer upon the altar: two yearling lambs each day, regularly.	3 . . . . As a regular burnt offering every day, two yearling lambs without blemish.
39 You shall offer the one lamb in the morning, and you shall offer the other lamb at twilight.	4 You shall offer one lamb in the morning, and the other lamb you shall offer at twilight.
	5 And as a meal offering, there shall be a tenth of an ephah of choice flour with a quarter of a hin of beaten oil mixed in
40 There shall be a tenth of a measure of choice flour with a quarter of a hin of beaten oil mixed in,	
	6 – the regular burnt offering instituted at Mount Sinai – an offering by fire of pleasing odor to the LORD.
and a libation of a quarter hin of wine for one lamb;	7 The libation with it shall be a quarter of a hin for each lamb, to be poured in the sacred precinct as an offering of fermented drink to the LORD.
41 and you shall offer the other lamb at twilight, repeating with it the meal offering of the morning with its libation – an offering by fire for a pleasing odor to the LORD	8 The other lamb you shall offer at twilight, preparing the same meal offering and libation as in the morning – an offering by fire of pleasing odor to the LORD.
42 a regular burnt offering throughout the generations, at the entrance of the Tent of Meeting before the LORD.	

Knohl assigns Exod 29:38–46 to H, but then claims that H simply transcribed the Priestly Torah of Num 28:2 ff. That claim makes no sense to us. Rather, H imposed the prescription of twice-daily sacrifices upon Numbers 28. The non-synoptic addition in Num 28:6a–bβ ("the regular burnt offering instituted at Mount Sinai," elaborating on Exod 29:42) is a sure sign of the redactor's intent to harmonize the two passages, and also indicates the secondary character of the Numbers passage. Both texts, then, are H; to recover P's original legislation, we must rely on Ezekiel 46.

The case of the daily sacrifice exemplifies a recurrent pattern that we have observed: H edits or augments P legislation, while Ezekiel apparently preserves a prior state of P. This is not to say that Ezekiel presents us with P in its original form; rather, Ezekiel represents what we would term a "transitional text" situated between P and H. And Ezekiel is not the only such text. Other texts of transitional character, from which we may infer the movement from P to H, include other prophetic writings, Chronicles, and D/Dtr.

The deuteronomic and deuteronomistic texts present special problems and opportunities. In our view, in its festival legislation and elsewhere, D/Dtr may be attempting to preserve R^{JE} against the onslaught of P, with two important ramifications: first, we may infer aspects of P from D/Dtr's polemic against it; and second, we may discern responses to D/Dtr in some elements of H. There is no unilinear movement from one source to the next, as the classical source-critical model suggested, but an ongoing process of interaction between the trajectories. The old argument about the relative dating of P and D was misguided when it was a simple question of which came first. The debate should be about how each tradition responds to the other in their continuing engagement on specific topics. The terminus ad quem for the process may be found in the Book of Nehemiah, which we take to report the publication and promulgation of H as the constitution of the community.

The Sabbath

The complexity of the situation is well exemplified by the case of the Sabbath.[19] One cannot overstate the importance of the Sabbath for the Jewish tradition. It is one of the benchmarks of Jewish observance: from antiquity to the present

19 The previous scholarship on this topic is voluminous. For surveys, see the standard biblical dictionaries, especially Jeffrey H. Tigay, שבת, in אנציקלופדיה מקראית (9 vols.; Jerusalem: Bialik Institute, 1976) 7:504–17. For more comprehensive treatments, see Niels-Erik A. Andreasen, *The Old Testament Sabbath* SBLDS 7 (Missoula: Scholars Press, 1972); Gnana Robinson, *The Origin and Development of the Old Testament Sabbath: A Comprehensive Exegetical Approach*, BET 21 (Frankfurt am Main: Peter Lang, 1988); Heather A. McKay, *Sabbath and Synagogue: The Question of Sabbath Worship in Ancient Judaism*, Religions in the Graeco-Roman World 122 (Leiden: Brill, 1994) esp. 11–42.

day, the manner in which Jews have observed (or not observed) the Sabbath has spoken volumes about their denominational affiliations and allegiance to traditional praxis. Jewish religious literature abounds with encomia of the Sabbath and admonitions to observe it. In his commentary on Exod 31:13, a verse that gives the Sabbath priority over the work of the Tabernacle, Bahya ben Asher (ca. 1300) writes: "Know that the Sabbath commandment is the primary commandment given to Israel prior to the giving of the Law, and that it is the first principle of the faith (עיקר האמונה), as weighty as all the rest of the commandments combined." He quotes several biblical and rabbinic texts in support of his assertion, including the claim that Jerusalem was destroyed because of the profanation of the Sabbath (*b.Šabb.* 119b, based on Ezek 22:26), and the statement that if only the Jews would properly observe as few as two Sabbaths, they would be redeemed immediately (*b.Šabb.* 118b, based on Isa 56:4, 7).

A perusal of the Pentateuch confirms the paramount importance of the Sabbath. Sabbath rest is the capstone of the Bible's first creation story; Rashi's grandson, Samuel b. Meir (Rashbam), argued that the reason the Bible describes the six days of creation at all is to provide an aetiology for the Sabbath, "for anticipatory purposes," in view of the explanation given for the Sabbath commandment in Exod 20:11: "For in six days the Lord made heaven and earth and sea, and all that is in them, and He rested on the seventh day." It hardly has to be mentioned that the Sabbath is the only holiday mentioned within the Ten Commandments. Yet as Bahya rightly observes, the laws of the Sabbath are presented even prior to the Sinai revelation. Like the laws of Passover and Unleavened Bread, they are embedded in the "historical" narrative of liberation. In the present shape of the narrative, the institution of Passover and Unleavened Bread in Exodus 12 and 13 is complemented by the introduction of the Sabbath in the manna story in Exodus 16. In the earliest poetic version of the narrative, Ps 78:12–25, the events are recounted without any mention of the accompanying festivals.

Given the centrality of the Sabbath to the present shape of the Pentateuch, as well as to the later Jewish tradition, it may seem surprising to suggest that it was a relative latecomer on the biblical scene, particularly in its present form. Yet that is precisely what critical analysis of the texts reveals: that while the roots of the Sabbath may be discerned in the pre-exilic period, they do not come to fruition until the exilic period at the earliest. And only in the post-exilic period do we see Sabbath observance become the hallmark of Jewish identity.

There are three defining characteristics of the Sabbath that develop separately over time. They are, 1. weekly observance, 2. cessation from work (that is, from farm labor and business activity, reflecting rural and urban venues, respectively), and 3. special sacrifices. All three are conjoined only in late texts, especially Jeremiah 17[20] and Nehemiah 10 and 13. Two additional characteristics

20 On the late dating of Jeremiah 17, see William McKane, *A Critical and Exegetical Commentary*

emerge once the three primary ones have coalesced: the death penalty for Sabbath violation (esp. Num 15:32–36 [H]), and an eschatological dimension (esp. Isa 52:6–7; 66:22–24). These two are related, in our view, but we will reserve discussion of them for another occasion.

In our 1990 article, we described the backbone of the old Northern calendar as the lunar month beginning with the first visibility of the moon in the evening. In this calendar, Days 1 and 15 – New Moon and Full Moon, respectively – figured as key dates. We followed the old suggestion that the cliché חדש ושבת (Hos 2:13; Amos 8:5; 2 Kgs 4:23; Isa 1:13) denoted New Moon and Full Moon, respectively, not only on philological grounds, but also because there is no evidence for any weekly cultic occasion in the North. New Moon appears to have been an occasion for a family feast (1 Sam 20:5, 18, 24), but little can be said about the character of the monthly שבת. The Amos text indicates that commercial activity was restricted. In 2 Kings 4, it is not clear if New Moon and Sabbath were considered propitious days for consultation with a prophet, or if they simply were good days to embark on a journey.

The weekly day off for farm labor in the old Northern legislation (Exod 23:12) was neither public nor cultic, and following the logic of the seventh-year manumission (Exod 21:2) and the fallow year (Exod 23:10–11), there is no reason to assume that everyone had the *same* day off. Although the verb שבת (to cease) is used in connection with this day off, the day is not referred to as Sabbath. And while this day off might be identified with the שבת that is mentioned in the seventh-century Metsad Hashavyahu Ostracon, more likely the term there simply denotes the completion or cessation of the task at hand.[21]

The next stage in the development of the tradition is R^{JE}'s adaptation of the old law in Exod 34:21. Exodus 34 poses a problem, however, because it is not clear if it refers to a weekly day off or only to a required day of rest on the seventh day of Matsot.[22] Verses 18–20 are concerned with Matsot, and v. 22 discusses Shavuot; there is no reason for a separate Sabbath command to intervene between the two. Deut 16:8 clearly takes Exod 34:21 to refer to the seventh day of Matsot: "After eating unleavened bread six days, you shall hold a solemn gathering for the LORD your God on the seventh day: you shall do no work." D's legislation is derived primarily from Exod 13:6, "Seven days you shall eat unleavened bread, and on the seventh day there shall be a festival of the LORD." Exodus 13, however, does not indicate any prohibition of work. It seems, then, that D has conflated Exod 13:6 with Exod 34:21. In any case, we can state cate-

on Jeremiah, ICC vol. 1 (Edinburgh: T. & T. Clark, 1986) 416–19.

21 Correctly translated as "Arbeitsende" in Johannes Renz and Wolfgang Röllig, *Handbuch der althebräischen Epigraphik* (3 vols.; Darmstadt: Wissenschaftliche Buchgesellschaft, 1995–2003) 1:325. See also their full discussion of the problem, 1:317–19.

22 For the latter view, which is our view as well, see Henri Cazelles, "Exod. XXXIV, 21: Traite-t-il du sabbat?," *CBQ* 23 (1961) 223–26.

gorically that neither R^{JE} nor his underlying sources knew of a weekly, public, cultic Sabbath.

The same situation obtains for the Book of Deuteronomy. Despite much scholarly special pleading for D's knowledge of the Sabbath,[23] the fact remains that the only occurrence in the book comes within the Ten Commandments (Deut 5:12–15), where the text is highly suspicious. We continue to believe that what is now a priestly commandment to observe the Sabbath was originally a Northern injunction to observe Matsot. That view accounts for the absence of any further mention of the Sabbath in Deuteronomy, and provides the most elegant explanation for the now anomalous clause in Deut 5:15, which uses the liberation from Egypt as the motive for Sabbath observance. (It is worth noting that the Sabbath commandment in Exod 20:8–11, motivated by divine rest on the seventh day of creation, is derived from Exod 31:15–16, which is patently H.) The introduction of the Sabbath into Deuteronomy is a priestly intrusion, like the similarly anomalous mention of the אהל מועד in Deut 31:14–15.

Despite the absence of the Sabbath from D, Deuteronomy 16 represents a crucial stage in its tradition history. According to Deut 16:8, "After eating unleavened bread six days, you shall hold a solemn gathering (עצרת) for the Lord your God on the seventh: you shall do no work." This legislation introduces the requirement of rest on important festival days. This rest, moreover, unlike the required cessation of farm labor in Exodus 23 and 34, is not confined to agricultural activity. On the contrary, its purpose seems to be to allow all Israelite males to come to the sanctuary in order to participate in the festival (16:16, mimicking the phraseology of Exodus 23 and 34). So not only does Deuteronomy require rest: it also joins that rest to a requirement of public assembly.

The next question is whether or not the weekly Sabbath is present in P, and if so, in what form. Here Knohl has made a significant breakthrough, although in our view, he has not gone far enough.[24] First, he correctly notes that nowhere in P is there any prohibition of work on the Sabbath. In this important respect, P is aligned with Ezekiel 46, which legislates special Sabbath sacrifices, but makes no mention of rest. Second, Knohl's thorough review of the Sabbath passages in the Torah led him to assign all of them to H with two exceptions: the creation story in Gen 2:1–3, and the sacrificial prescriptions in Num 28:9–10.

Knohl's argumentation with respect to the Genesis text seems dubious. The absence of any command forbidding work indicates nothing more than that the text is aetiological rather than halakhic. Knohl further adduces "the schematic format of this passage, its measured style, and the indications of

23 The most interesting argument, in our view, remains that of Stephen A. Kaufman, "The Structure of the Deuteronomic Law," *Maarav* 1 (1979) 105–58, esp. 129–33.

24 See Knohl, *Sanctuary of Silence*, 14–19.

its antiquity" as evidence for ascribing the text to P.[25] The first two criteria are moot, particularly since Knohl asserts them without elaboration. For the third, he depends on the important work of Weinfeld. Weinfeld's demonstration of the typological character of Gen 1:1 – 2:4a, however, indicates affinity with H at least as much as "antiquity." For example, Weinfeld notes the relationship between the seven-day sequence in Genesis and that in Exod 24:16: "The Presence of the LORD abode on Mount Sinai, and the cloud hid it for six days. On the seventh day He called to Moses from the midst of the cloud." That text, in turn, anticipates the entry of the divine presence into the Tabernacle in Exod 40:34: "the cloud covered the Tent of Meeting, and the Presence of the LORD filled the Tabernacle." Weinfeld considers the two Exodus texts to be P, but Knohl has reassigned them to H, rightly in our opinion.

It is conceivable that Gen 1:1 – 2:4a is an H composition in its entirety, as Firmage and Amit have argued. But our view is that it represents H's reworking and augmentation of earlier P creation material. The order of creation, as Heidel demonstrated, parallels that in *Enuma elish*,[26] although of course the Babylonian account does not divide creation into days. H has supplied the seven-day structure and the recurring refrains (the terminology of "evening" and "morning" is especially indicative), overlaying the story with what Weinfeld rightly terms "a liturgic character," and culminating with the Sabbath aetiology. Despite the trappings of H in the opening chapter of Genesis, however (and even though we consider the final form of Genesis 1–11 to be an H composition), it seems essential that P's Torah would have begun with creation as well – without the division into days, and without the Sabbath.[27]

The case of Num 28:9–10 is even more revealing. Knohl naturally recognizes that Num 28–29 is composed of both P and H elements. As our discussion of the daily sacrifice has shown, however, the H involvement is more extensive than he has allowed. The key to understanding the status of the Sabbath pericope (vv. 9–10) is the framing statement in 28:2 and 29:39 that includes it in a list of offerings for the מועדים. But is the Sabbath one of the מועדים?

For P, we suggest, the term מועד designates a festival that is fixed by means of astronomical observation. The aetiology for this understanding is in Gen 1:14, which appoints the heavenly bodies as signs for the מועדים. See also Ps 104:19: "He made the moon to mark the מועדים; the sun knows when to set." The use of astronomical observation for fixing festival times is either a P innovation or P's adaptation of earlier Judean practice. There is, in contrast, no indication of its use by R^{JE} or D/Dtr (where מועד denotes simply a "designated time"). To

25 Knohl, *Sanctuary of Silence*, 18.

26 Alexander Heidel, *The Babylonian Genesis* (2nd ed.; Chicago: Univ. of Chicago, 1951) 129. See also E. A. Speiser, *Genesis*, AB 1 (Garden City: Doubleday, 1964) 9–10.

27 Similarly, Robinson, *Origin and Development*, 297–98.

some extent, we are inclined to see D's virulent diatribes against the worship of the heavenly bodies (most famously in Deut 4:19) as polemics against this practice. All things astral are consigned to the fire by Josiah's reform (e.g., 2 Kgs 23:5), which is Dtr's way of undoing P's Judean cult.

If we are correct in our understanding of P's מועד, there is no way that a weekly Sabbath could have been included in P's listing of מועדים: the Sabbath recurs in a seven-day cycle, not contingent on any astronomical observation. That fact would leave only two alternative explanations for the inclusion of the Sabbath in Numbers 28–29: if the text is, indeed, P, then the term "Sabbath" there might still denote Full Moon; more likely, however, the text is H, not P.[28] Not only does it read like an afterthought. In addition, the offerings that it prescribes are determined mechanically by doubling the daily offerings, which we now know to be H, and they are inconsistent with the Sabbath offerings prescribed in Ezek 46:4–5:

Numbers 28:9–10	*Ezekiel 46:4–5*
9 On the sabbath day: two yearling lambs without blemish, together with two-tenths of a measure of choice flour with oil mixed in as a meal offering, and with the proper libation – 10 a burnt offering for every sabbath, in addition to the regular burnt offering and its libation.	4 The burnt offering which the prince presents to the LORD on the sabbath day shall consist of six lambs without blemish and one ram without blemish – 5 with a meal offering of an ephah for the ram, a meal offering of as much as he wishes for the lambs, and a hin of oil with every ephah.

Even if we are wrong about the precise meaning of מועד, it remains problematic to include Sabbath among the מועדים. Leviticus 23:2–3 is a notorious case of overdetermination – H asserting that the Sabbath is, indeed, a מועד. But that assertion is undermined in vv. 37–38 of the selfsame chapter, which distinguish sabbaths from מועדים. Verses 2–3 read as follows:

> 2 Speak to the Israelite people and say to them: These are My מועדים, the מועדים of the LORD, which you shall proclaim as sacred occasions. 3 On six days work may be done, but on the seventh day there shall be a sabbath of complete rest, a sacred occasion. You shall do no work; it shall be a sabbath of the LORD throughout your settlements.

That text is immediately followed by a second introductory rubric in v. 4, which precedes the description of the annual festivals: "These are the מועדים of the

28 Contra Amit, "Creation and the Calendar of Holiness," 24*–25*.

LORD, the sacred מועדים, which you shall celebrate each at its appointed time." The redundancy alone should suffice to indicate that the Sabbath does not belong on this list, but any lingering doubt should be alleviated by vv. 37–38:

> 37 Those are the מועדים of the LORD that you shall celebrate as sacred מועדים, bringing offerings by fire to the LORD – burnt offerings, meal offerings, sacrifices, and libations, on each day what is proper to it – 38 *apart from the sabbaths of the* LORD. . . .

Ezek 44:24 provides another clear instance of the differentiation of sabbaths from מועדים: "They shall preserve my teachings and my laws regarding all my מועדים; and they shall maintain the sanctity of my sabbaths." Ezek 46:1–12 elaborates, giving the cultic aspect of that differentiation. Vv. 1–8 detail the practices connected with Sabbath and New Moon, v. 1 stating explicitly – perhaps the earliest text to do so – that the Sabbath is a weekly occasion. The practices associated with the two special times are about the same, except that there is an additional sacrifice on New Moon as compared with Sabbath. Vv. 9–12 then follow with separate regulations for the מועדים.[29]

Despite H's attempt to assimilate the Sabbath to the מועדים in Leviticus 23 and Numbers 28 (or one might say vice versa, to turn the festivals into de facto sabbaths), other late texts retain the distinction. The separate listing of "sabbaths, new moons, and מועדים" recurs in Neh 10:34 and four times in Chronicles (1 Chr 23:31; 2 Chr 2:3; 8:3; 31:3). A variant in Ezra 3:5 mentions only new moons and מועדים. The separation of New Moon from the מועדים, incidentally, shows how the technical sense of מועדים as "occasions determined by astronomical observation" had been lost.

Apart from the distinction that it maintains between Sabbath and מועד, Ezek 46:1–8 is striking for the near-parity that it establishes between Sabbath and New Moon. Once again, we can see Ezekiel as a "transitional text." In its original P form, we suggest, Numbers 28–29 included New Moon (28:11–15), but not Sabbath. Leviticus 23, on the other hand, includes the Sabbath but not New Moon. And Ezekiel 46, which falls in between, has both.

Another crucial element in H's overdetermination of the Sabbath is the designation of the weekly Sabbath as a "sacred occasion" (מקרא קדש) in Lev 23:3.[30] Numbers 28–29 applies that term to six specified dates: the first and seventh days of *Matsot* (28:18, 25); *Shavuot* (28:26); *Teruʿa* (29:1); *Kippurim* (29:7), and *Hag* (= *Sukkot*; 29:12). In addition, the "eighth day" is termed עצרת (29:35), using the term that is found in Deut 16:8. On all seven of those occasions, consistent with the model of Deuteronomy's עצרת, work is prohibited, and public

29 The only problem text in Ezekiel is 45:17, which is, however, a virtual quotation of Hos 2:13.

30 See also Knohl, *Sanctuary of Silence*, 19.

assembly is required, but the latter requirement is not directed exclusively at males, as it is in the earlier texts. Although P and H both employ the term חג, it is not clear that it denotes a pilgrimage for them, rather than simply a festival, as in Ezek 46:11, where the phrase חגים ומועדים seems to take in all festivals that are not sabbaths and new moons.

It is most telling that Numbers 28 neither requires public assembly nor prohibits work on Sabbath or New Moon. Ezek 46:3 implies a public gathering on the Sabbath, describing the common people (עם הארץ) worshipping at the gate while the priests make sacrificial offerings on behalf of the נשיא. But there is no prohibition of labor. Lev 23:3, finally, explicitly designates the Sabbath as a מקרא קדש. Not only is Sabbath assimilated to the מועדים, then, but all מועדים are designated as מקראי קדש on which work is prohibited. H has put all of the pieces of the puzzle into place, and the Sabbath is now a weekly, public occasion on which no work is permitted and special sacrifices are offered.

Before we conclude with some suggestions concerning the social role of Sabbath in post-exilic times, it remains for us to consider Exodus 16, particularly the Sabbath material that is embedded in the manna story. Many older source critics tended to assign the chapter to P almost in toto; Carpenter and Harford, for example, allot 16:4 to JE and everything else to P.[31] They do so for good reason, since v. 4 contains the testing motif that appears to be a primary motif in JE's wilderness narrative (particularly in the episodes that immediately follow the Sea crossing). In addition, it is generally assumed, as Childs remarks, that "Num. 11 presupposes an account of the first giving of manna which is most probably to be found in Ex. 16."[32] Other scholars have offered more refined analyses, mainly seeking fragments of a coherent JE narrative to set alongside the one assigned to P.[33] Knohl's analysis is disappointingly vague: he describes the chapter as a "blending of Priestly and non-Priestly traditions," and then refrains from providing any details, remarking only that "the Priestly material in the chapter originates in the Holiness School."[34]

With that last statement we are in total agreement, on the basis of the characteristic H diction with which the chapter abounds. But precisely which portions of the chapter are to be assigned to R^{JE} and H, respectively? Our view is that no matter how one construes R^{JE}, it contains no explicit reference to the Sabbath. The crux of the matter is vv. 28–30:

31 J. Estlin Carpenter and George Harford, *The Composition of the Hexateuch* (New York: Longmans, Green, 1902) 516.

32 Brevard Childs, *The Book of Exodus*, OTL (Philadelphia: Westminster, 1974) 275.

33 The most comprehensive treatment of the topic is still Paul Maiberger, *Das Manna: eine literarische, etymologische und naturkundliche Untersuchung* (Wiesbaden: Harrassowitz, 1983). For an excellent summary, also by Maiberger, see *TDOT* 8:389–95.

34 Knohl, *Sanctuary of Silence*, 62.

> 28 And the LORD said to Moses, "How long will you men refuse to obey
> My commandments and My teachings? 29 Mark that the LORD has given
> you the sabbath; therefore He gives you two days' food on the sixth day.
> Let everyone remain where he is: let no one leave his place on the seventh
> day." 30 So the people remained inactive on the seventh day.

Maiberger (followed recently by Propp),[35] assigns this entire passage to JE (Propp with a question mark), but surely the abrupt shift from first to third person in v. 29a shows the passage to be composite. The logical sequel to v. 28, in our view, is the command in v. 29b. R^{JE}'s use of the terms "sixth day" and "seventh day" in vv. 5 and 29–30 (as opposed to "Sabbath"), furthermore, is consistent with the old legislation in Exod 23:12, as is the use of the verb שבת denoting cessation from labor in both 16:30 and 23:12.

There is, then, no explicit reference to the cultic Sabbath in the R^{JE} layer of Exodus 16 – only in H. We also note that the references to the manna tradition in Deut 8:2, 3, 16 and Ps 78:23–25 allude to R^{JE}'s testing motif, but contain nary a hint of the Sabbath. We do not share the view that Exodus 16:4–5 and 28–29 show signs of deuteronomistic shaping.[36] Once again, we refer to the proto-deuteronomic character of R^{JE} to explain the deuteronomi(sti)c affinities in Exodus 16. The last thing we would expect from Dtr is a strong emphasis on the Sabbath commandment!

Now we are in a position to conclude with a synthesis of the data. The eighth-century P retained New Moon as a sacred time, perhaps under the influence of R^{JE}. But if P had a Sabbath, its character cannot be determined from the extant texts. One peculiarity of P's calendar does suggest the possibility that Sabbath still denoted Full Moon, and that is the prominence of Day 15 festival dates, in contrast to R^{JE}'s emphasis on New Moon. (Note especially the shifting date of Matsot, from New Moon to Full Moon of Month 1; compare Exod 23:15 and 34:18 with Num 28:16–17.) In addition, the famous crux, ממחרת השבת, "on the morrow of the sabbath," in Lev 23:11, 15, would be no problem at all if it were a frozen expression meaning "the day following Full Moon" (although we recognize how problematic that suggestion is in the present form of the text).[37]

While P seems not to have had a weekly Sabbath, neither is that occasion an H innovation. Perhaps the shift from monthly to weekly observance was motivated in part by D/Dtr's polemics against astral worship. Another kind of explanation would see influence from exilic religious practice, but we have no idea what such practice looked like in Babylon, and we get no sense from

35 Propp, *Exodus 1–18*, 584, 589.

36 See esp. Eberhard Ruprecht, "Stellung und Bedeutung der Erzählung vom Mannawunder (Ex 16) im Aufbau der Priesterschrift," *ZAW* 86 (1974) 269–307; Erhard Blum, *Studien* (above, n. 3), 146–48.

37 See Abraham E. Millgram, *Sabbath: The Day of Delight* (Philadelphia: Jewish Publication So-

exilic or post-exilic sources that post-exilic religion continued practices that had been developed in Babylon. Rather, the emphasis in those sources is on the revival or restoration of what had been before (which obviously leaves open the possibility of innovation). The notable exception to this tendency is Jeremiah, who presents innovation as innovation. The Sabbath pericope in Jeremiah 17, however, is almost certainly a late editorial addition.

In Ezekiel, we see innovation couched as revival; he seems to have developed his program for renewal by means of learned reworking of earlier traditions, many of them unrecoverable given the state of the sources. Ezekiel combines retrospect and prospect, in contrast to H, which is chronologically flat (that is, all prescription). Yet Ezekiel's judgment oracles give us the best context that we have for H's program. For example, Ezekiel's diatribes in chapters 20, 22 and 23 on the failure to distinguish between sacred and profane and the concomitant profanation of the Sabbath seem to elicit direct responses in Leviticus 10 and 19. Ezekiel's Sabbath, moreover, seems to be a metonym for the מקדש in absence of a tangible מקדש: "You have despised my holy things and profaned my sabbaths" (22:8). For the exiles, perhaps the sabbath actually became the functional equivalent of the Temple – the quintessential expression of "holiness in time" (as opposed to space)[38] – even if we cannot reconstruct the details of observance.

The upward valuation of the weekly Sabbath is accompanied by de-emphasis of New Moon to the point of the suppression of the latter in Leviticus 23. Again on this matter, Ezekiel 46 appears to fall midway between P and H. Finally, the cultic Sabbath, anchored in the seven-day creation story, becomes the centerpiece of H's ideology in the post-exilic period; its centrality is marked by the way H has woven it obsessively into the earlier sources, making violation punishable by death. Sabbath observance defines Jewish identity in the post-exilic community just as the communal celebration of Pesach/Matsot had defined Israelite identity in the pre-exilic period. The old festivals remain in force in H's Torah, but they are subsumed under the principles of שבת and קדושה – Sabbath and holiness – that organize all of reality for him.

The essential role of the Sabbath in the post-exilic community is captured perfectly by Westermann, who observes, commenting on Isa 56:2: "During the exile the Sabbath had become a badge denoting membership of the community that worshipped Yahweh. Now, after the return, it is given a further significance: it is made a clinching criterion of orthodoxy."[39] The reference in Ezek 46:3 to the עם הארץ gathering for Sabbath worship suggests the expectation that Sabbath regulations could be imposed on everyone, but the details of the

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ciety, 1944) 339. For a comprehensive discussion of the issue, see Milgrom, *Leviticus 23–27*, 2056–63.

38 See Abraham Joshua Heschel, *The Sabbath: Its Meaning for Modern Man* (New York: Farrar, Straus and Young, 1951).

39 Claus Westermann, *Isaiah 40–66*, OTL (Philadelphia: Westminster, 1969) 310.

Sabbath ritual there are unlike anything else in the sources. Nehemiah 10 and 13 probably present a more realistic picture of the Sabbath that the returnees actually imposed on the community.

Westermann's notion of an "orthodoxy" evokes the fundamental question of identity: who may belong to the community? Is inclusion to be decided on the basis of lineage or ethnicity, or on the basis of observance? The post-exilic community appears to have been divided on that crucial question, but the latter view does have some advocacy. Ezra 6:21 seems to suggest an open-door policy for the observant, against the more exclusionary policy that typifies Ezra/Nehemiah: the returnees celebrated Passover "together with all who joined them in separating themselves from the uncleanliness of the nations." And in an eschatological context, Isaiah 56 holds out the promise of salvation even to "foreigners," as long as they "attach themselves to the Lord" and "keep the sabbath" (v. 6).[40]

Those texts, however, stand out amidst the more broadly exclusionary policy found especially in Ezra 9 and Nehemiah 13. Here, too, the Sabbath plays a prominent role. In Neh 13:17–18, Nehemiah censures the "nobles of Judah" for profaning the Sabbath, claiming that "this is just what your ancestors did," bringing divine wrath down upon Jerusalem. Now Nehemiah must act to prevent history from repeating itself. One ought to empathize for a moment with those beleaguered "nobles," whose point of view the Bible does not present, since this alleged Sabbath of their ancestors, which they allegedly were profaning, probably came as news to them.

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40 See recently Niels-Erik A. Andreasen, "Sabbath and Synagogue," in Lammontte M. Luker, ed., *Passion, Vitality, and Foment: The Dynamics of Second Temple Judaism* (Harrisburg: Trinity, 2001) 189–211; Leszek Ruszkowski, "Der Sabbat bei Tritojesaja," in Beat Huwyler, et al., eds., *Prophetie und Psalmen: Festschrift für Klaus Seybold zum 65. Geburtstag,* AOAT 280 (Münster: Ugarit-Verlag, 2001) 61–74.

The Redactional Agenda of the Book of Psalms

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Scholars are currently paying increased attention to the literary shape of the final form, or the redactional agenda, of the Book of Psalms. This article seeks to evaluate the most prominent of these proposals. Some proposals emphasize the nation's disappointment surrounding the failure of the office of Davidic king; others, wisdom motifs prominent during intertestamental times. Still others see eschatology as the redactional focal point. The author examines these proposals and concludes that they all have legitimate contributions to make to the study of the Hebrew Psalter. The problem with most of these proposals is that they are mutually exclusive, and therefore cannot benefit from the insights of other proposals. The author suggests that the main themes of the Hebrew Psalter are wisdom (right living , eschatology (the messiah in the eschaton), and worship (adoration of God for his person and works). These three themes are all emphasized by the prominent placement of psalms that deal with their respective subjects as well as by repetition of the various themes throughout the book. Part of the interpreter's task is to understand a given psalm in light of the overall thematic concerns of the Book of Psalms as a whole.

Recent studies have argued at length for a purposeful redaction of the Psalter.[1] Such studies point out that the Book of Psalms seems to have a clear *introduction*. Psalms 1 and 2 appear to introduce the Psalter as a whole and together cast a hermeneutical grid for its proper interpretation.[2] The many correspondences

1 The best sources dealing with the arguments used to build a case for a purposeful redaction are: J. Clinton McCann, ed., *The Shape and Shaping of the Psalter*, JSOTSup 159 (Sheffield: JSOT Press, 1993); Gerald H. Wilson, *The Editing of the Hebrew Psalter*, SBLDS 76 (Chico: Scholars Press, 1985); David C. Mitchell, *The Message of the Psalter: An Eschatological Programme in the Book of Psalms*, JSOTSup 252 (Sheffield: Sheffield Academic Press, 1997). Also helpful is Norman Whybray, *Reading the Psalms as a Book*, JSOTSup 222 (Sheffield: Sheffield Academic Press, 1996). The most recent full-length treatment is by Jean-Marie Auwers, *La Composition Littéraire du Psautier: Un État de la Question*, CahRB 46 (Paris: Gabalda, 2000). Cf. also Leslie McFall, "The Evidence for A Logical Arrangement of the Psalter," *WTJ* 62 (2000) 223–56; and Duane L. Christensen, "The Book of Psalms within the Canonical Process in Ancient Israel," *JETS* 39 (1996) 421–32. Christensen's ideas are based on a calendrical scheme (which merely pushes the question of redaction back a step) and a highly doubtful analogy with a collection of oracles by a historically prominent native American.

2 Patrick D. Miller, "The Beginning of the Psalter," in J. Clinton McCann, ed., *The Shape and Shaping of the Psalter*, JSOTSup 159 (Sheffield: JSOT Press, 1993) 83–92; Joseph P. Brennan, "Psalms 1–8: Some Hidden Harmonies," *BTB* 10 (1980) 25–26. See also W. Brownlee, "Psalms 1–2 as a

between these two Psalms support this contention.[3] The Book of Psalms also seems to have a clear *conclusion*. Psalms 146–50 place an emphasis on praise that exudes a sense of finality.[4] In addition, there appear to be doxologies placed at several points in the Book of Psalms which divide the Psalter into five books: Book I = Psalms 1–41; Book II = Psalms 42–72; Book III = Psalms 73–89; Book IV = Psalms 90–106; Book V = Psalms 107–50.

At this point, then, we have an introduction, conclusion and internal book divisions. Once these points are acknowledged, other phenomena about the Book of Psalms begin to add increasing evidence to the contention that the Book of Psalms was redacted with a specific purpose in mind. At the "seams" of the books listed above, royal psalms often appear, reinforcing a certain hermeneutical grid for the books of the Psalter.[5] At various points in the Book of Psalms, adjacent psalms have lexical and thematic links which seem to indicate they were placed together intentionally.[6] Intentionality can be discerned in other sections of the Psalter. For example, Mitchell discerns a broad chiastic structure in Psalms 42–89, and argues for the unity of Books I–III.[7] Finally,

Coronation Liturgy," *Bib* 52 (1971) 321–36.

3 Against J. T. Willis, "Psalm 1 — An Entity," *ZAW* 91 (1979) 381–401. Willis argues against the combination of Psalms 1 and 2, but most who affirm redactional intention here are simply asserting that Psalms 1 and 2 have been purposely placed where they are (without commenting on their origin) to provide an interpretational framework for the Psalter. They are certainly different psalms, but they have been placed together intentionally.

If Willis is unwilling to read these two psalms together, Robert Cole has probably overinterpreted the relationship between the two psalms in his recent article, "An Integrated Reading of Psalms 1 and 2," *JSOT* 98 (2002) 75–88. Cole asserts that the "man" of Psalm 1 actually *is* the anointed king of Psalm 2. Although Cole finds many lexical connections between Psalms 1 and 2, and notes the common intertext of both psalms (Joshua 1), he, in some instances, downplays differences between the psalms and draws *necessary* conclusions which are really only *possible*. Moreover, his understanding of Psalm 1 changes the psalm from a wisdom psalm to essentially prophecy, but this downplays the prominence of wisdom psalms and themes throughout the Psalter. If Cole is right, the *entire psalter* should be messianic and eschatological in nature, but, as we shall see, this is not the case. Finally, as several studies have shown, the theology of Psalm 1 is investigated, re-evaluated, qualified and re-affirmed throughout the Psalter; but why should this be so if the psalm is essentially eschatological and messianic? In short, Cole's suggestion robs the psalter's introduction of its universal appeal and overemphasizes its eschatological elements.

4 Brennan argues that the links between Psalm 2 and 148 [= MT 149] means that a redactional process extends to the whole book ("Psalms 1–8," 28).

5 See Gerald Wilson, "The Use of Royal Psalms at the 'Seams' of the Hebrew Psalter," *JSOT* 35 (1986) 85–94.

6 See especially Joseph P. Brennan, "Some Hidden Harmonies in the Fifth Book of the Psalms," in Robert F. McNamara, ed., *Essays in Honor of Joseph P. Brennan* (Rochester: Saint Bernard's Seminary, 1977) 126–58; Brennan, "Psalms 1–8," 25–29.

7 Mitchell, *Message*, 69–73.

appeal can be made to other hymnic collections from the ANE which show evidence of purposeful redaction.[8]

These observations are generally accepted in Psalms study as valid arguments for some kind of editorial or redactional agenda behind the canonical Hebrew Psalter.[9] The impact of these arguments has been to push interpreters to examine a Psalm's "Psalter context" when doing exegesis. In light of the persuasiveness of the above arguments, I accept the suggestion that the Psalter was intentionally redacted with a particular theological agenda. The purpose of this article is to explore the nature of that agenda. I will argue that three dominant trajectories serve to explain the content and structure of the Psalter: wisdom, eschatology, and worship.

Before considering specific proposals, I want to address briefly the doubts of Norman Whybray, who questions the whole notion of a controlling theological agenda at work in the Psalter in his study *On Reading the Psalms as a Book*. After a helpful survey of current views on the composition and arrangement of the Psalter (chapter 1), Whybray looks at the Book of Psalms from several perspectives to ask if the book as a whole shows signs of a single redactional perspective. Although there are signs that Wisdom and Torah material (chapter 2) was placed at key points, and a few psalms show signs of alteration, Whybray does not think this constitutes a coherent redactional strategy. "However hard one may try to account for the arrangement of the Psalter, it is difficult to dismiss the impression of randomness in the positioning of many of them."[10] Similarly (chapter 3), he sees no clear eschatological redaction either.

> There is no evidence that redactors set themselves deliberately to document the failure of the Davidic monarchy and to draw theological conclusions from this: rather the contrary. . . . It is clear that there was no *systematic redaction* of royal psalms, any more than there was a systematic wisdom

8 Wilson laid the methodological groundwork here in *The Editing of the Hebrew Psalter* (chaps. 2 and 3). However, what Wilson demonstrates is editorial intention at a somewhat "pedestrian" level, i.e., according to author, genre, divinity addressed, etc. No one, as far as I know, has argued for a broad theological redactional agenda for these collections, but that is *precisely* what is argued for in the Hebrew Psalter, as we shall see below. I do not believe this kind of editorial shaping has been proven in ANE collections.

9 Note, however, the reservations of Whybray, *Reading the Psalms* and, more recently, Robert Davidson, *The Vitality of Worship* (Grand Rapids: Eerdmans, 1998). Davidson writes: "There have been many attempts in recent years to explain how this motley collection of material came into its present shape and form. . . . Whether we can discover one overarching literary or theological purpose linking all the psalms together and accounting for the present order of the book remains uncertain" (*Vitality of Worship*, 7).

10 Whybray, *Reading the Psalms*, 86.

> redaction. The most that can be said is that the hope of a restoration of the monarchy under a royal figure was alive for some during the post-exilic period and that some expression was given to this in the Psalms, though not usually by means of textual additions and interpolations.[11]

Whybray concludes much the same with regard to the psalmic (re-)interpretation of ritual sacrifice (chapter 4): "While the Psalter does testify to the work of redactors of individual psalms who made 'corrections' to offending passages, it is clear that there was no systematic activity of this kind in the final redaction of the book."[12] Whybray concludes his study with several observations:

1. "There is no evidence that there was a systematic and purposeful redaction of the whole Psalter in any of the suggested ways."
2. "There is no direct evidence (except Ps. 72.20), internal or external, about the process by which the Psalter received its shape."
3. "There is no lack of evidence to show that particular groups of psalms within the Psalter were formed for different purposes and at different times."
4. "We also remain in ignorance of the date and the purpose of the division of the Psalter into five Books."[13]

He then concludes:

> There is no evidence of the thorough and systematic changes that would have been necessary if the Psalter were to become the expression of a single theology. The stages by which it took its present shape lie mainly beyond our knowing.[14]

Although Whybray has given some helpful correctives and questioned approaches that appear to *create* a redactional strategy rather than discover one, he has probably demanded too much from the enterprise as a whole. For example, is it true that "Any theory of a coherent pattern ought surely to provide some explanation of the arrangement of the *whole collection*"?[15] Do we hold redactional studies of other books of the Hebrew Bible to that standard? Must *every psalm* demonstrate evidence of the proposed redaction?

11 Whybray, *Reading the Psalms*, 99.
12 Whybray, *Reading the Psalms*, 117.
13 These quotes are all from Whybray, *Reading the Psalms*, 119.
14 Whybray, *Reading the Psalms*, 124.
15 Whybray, *Reading the Psalms*, 120.

Also, although he correctly points out that we have no direct evidence, internal or external, about the process by which the Psalter received its shape, is it not also true that we have the *book itself* as evidence? Do we have any explicit statements about a redactional intention in other books of the Hebrew Bible? Are not redactional studies of those books based on the *text itself* regardless of any internal or external descriptions of the redactional process? By lodging these objections, Whybray is really casting doubt on *any* redactional study of texts. Finally, Whybray pays insufficient attention to the affect the placement of certain psalms at certain points can have on the structure and message of the book as a whole.[16] My conclusion is that Whybray has been unsuccessful in his attempt to end the search for a discernable editorial intention in the Book of Psalms.

The Redactional Agenda
An Evaluation of Past Proposals

Although there is general agreement that the Book of Psalms was intentionally redacted, there is little unanimity on what that redactional agenda *really is*. In this section, I will review and evaluate the more influential proposals. In the following section, I will seek to move the discussion forward by acknowledging the contributions of each of these proposals but also by setting aside the search for a single, exclusive agenda for the redaction of the Psalter.

J. P. BRENNAN

In a pair of articles on "hidden harmonies" in the Psalter,[17] J. P. Brennan anticipates a great deal of the current discussion on the Psalter's redaction and offers some helpful suggestions on the current shape of the Book of Psalms. For example, he writes:

> I would like to suggest in this article that a careful reading indicates that the Psalter has not developed in a haphazard and arbitrary way, but has been carefully woven together in such a manner that previously independent compositions, or smaller collections of such compositions, now comment upon or respond to one another. Hence, for a proper understanding of the Psalter it is not enough to study each of its 150 components in the historical context from which it originally sprang. They must all be studied in their relationship to each other, since all of them together convey more than they do if looked at separately.[18]

16 Cf. his discussion of Wilson and others (Whybray, *Reading the Psalms*, 30ff.).

17 Brennan, "Fifth Book of Psalms"; Brennan, "Psalm 1–8."

18 Brennan, "Fifth Book of Psalms," 126–27.

He summarizes his approach as follows: "I wish to suggest that a consecutive reading of the Hebrew Psalter leads to the conclusion that one of the principles governing the compilation of this collection was that of juxtaposing Psalms in such a way that various key words and expressions in one pick up and develop a theme already enunciated in another."[19]

Then, he applies his method to two major portions of the Book of Psalms: first, Psalms 1–8; then the entirety of Book V (Psalms 107–50). Brennan sees Psalms 1 and 2 as key for understanding the Psalter as a book; they provide "a kind of prologue or overture" to the entire book. The effect of this prologue is as follows:

> . . . [T]he editors who are responsible for the Psalter as we now have it, have skillfully taken this earlier collection and provided it with an introduction which not only sets the scene for the great conflict (Psalm 2), but also makes it possible for the reader to become involved in the process (Psalm 1). By aligning ourselves with "the just" in Psalm 1, and with those who "trust in Yahweh" in Psalm 2, the "wicked enemies" against whom the king prays for help in 3:8–9 become our enemies as well, as we become part of that people upon whom he invokes Yahweh's blessing (3:9).[20]

Brennan then goes on to show how each Psalm picks up and develops themes of the previous one, usually by means of leitmotifs or catch-words. He also suggests a close connection between Psalms 2 and 149; the former introduces the conflict, the latter concludes it. In his conclusion he comes close to stating an overall grand scheme for the Hebrew Psalter:

> Such a reading of the Psalter opens the way to an eschatological and messianic interpretation of many texts which had originally only a limited national and historic setting. The Psalter comes to be seen as a magnificent dramatic struggle between the two ways – that of Yahweh, his anointed king, and the company of the just, and that of the wicked, the sinners, the evil-doers.[21]

In his article on Book V of the Psalter, he suggests that the book was put together on literary grounds versus liturgical grounds, and states the theme of Book V: "They [the Psalms of Book V] seem to form a series of meditations or reflections on the inner meaning and the present application of the great themes of the Covenant Renewal Festival as this was celebrated in the post-

19 Brennan, "Psalms 1–8," 25.
20 Brennan, "Psalms 1–8," 26.
21 Brennan, "Psalms 1–8," 29.

exilic period."[22] By "present application" he means the post-exilic community in and around Jerusalem, since he goes on to analyze three cycles of psalms in relation to the historical situation of the post-exilic community. Specifically:

> The first cycle (107–119) looks back to the events of the Exodus and to the gift of the Law, and sees these as renewed in the events of the return from Babylon. The second (120–136) highlights the various phases of the annual pilgrimage to restored Jerusalem, and the third (137–150), with its moments of desperation and exaltation, anticipates the final great confrontation in which all creation will ultimately join Yahweh's covenant-people in acknowledging him as God and King.[23]

Brennan demonstrates the interrelatedness of individual psalms in Book v by noting how often themes, concepts, and/or words are picked up in adjacent psalms and developed, answered, or commented on.

There is much to commend in Brennan's proposals. He has done good work in noting the lexical links between both adjacent psalms and psalms stretching across the whole Psalter. He has properly noted the importance of Psalms 1 and 2 as an introduction to the book as a whole. Also, he has made many helpful observations on individual psalms. However, although he suggests a broad eschatological/messianic drama in the Psalter, he has not demonstrated how to read the book consistently in the light of this drama. Moreover, in his discussion of Book v, he has departed from this agenda himself by interpreting most of Book v from the historical standpoint of the post-exilic community in Israel. Of course, allowances must be made for what can realistically be accomplished in two articles, but Brennan is not ultimately successful in putting forth a broad proposal for a redactional agenda for the Psalter.

BREVARD CHILDS

In his *Introduction to the Old Testament as Scripture*,[24] Brevard Childs put forth a new understanding of the Psalter when viewed from what he called a "canonical" perspective. Initially, Childs makes two main points:

1. The impact of the critical approach has been largely negative in the sense that subsequent generations were cut off from the message of the Psalter, since individual psalms were studied from a strictly historical perspective.

22 Brennan, "Fifth Book of Psalms," 128.

23 Brennan, "Fifth Book of Psalms," 128.

24 Brevard S. Childs, *Introduction to the Old Testament as Scripture* (Philadelphia: Fortress, 1979). His discussion of the Psalms is chapter 33, 504–25. Cf. also his earlier treatment "Reflections on the Modern Study of the Psalms," in Frank Moore Cross, Werner E. Lemke, and Patrick

2. The "canonical" approach to the Psalter remedies this problem by taking into consideration how the text was received and shaped by the community as sacred scripture.

Childs then considers how the present shape of the Book of Psalms determines how it should be read. He first acknowledges that the Psalter has a complex development both at the oral and literary stages. In fact, this development is so complex that Childs exhibits an agnostic opinion on ever being able to make sense of the current shape.[25]

Nevertheless, he goes on to discuss several important factors of the Psalter's current literary shape. First, there is a clear introduction to the Psalter in Psalm 1. The prominent place of this Torah psalm indicates that the book as a whole is no longer simply a random collection of prayers; it becomes a source of meditation and blessing for the faithful. "The introduction is, therefore, the first hint that the original setting has been subordinated to a new theological function for the future generations of worshipping Israel."[26] Second, the "anthological style," i.e., the re-use of psalms in new contexts and for different purposes, leads one to focus on the psalms' literary nature more than on historical or cultic aspects. "The point to be stressed is that within Israel the psalms have been loosened from a given cultic context and the words assigned a significance in themselves as sacred scripture."[27] Third, the placement of royal psalms at strategic points throughout the Psalter instead of as a group like the complaints, songs of pilgrimage, etc., shows a secondary use of these psalms. The function of these royal psalms appears to create an eschatological perspective, for even when the throne was vacant these psalms celebrated the royal-Davidic ideology of Israel. In fact, these psalms function as an echo of the prophetic messianic expectation. Childs writes: "In sum, although the royal psalms arose originally in a peculiar historical setting of ancient Israel which had received its form from a common mythopoetic milieu, they were treasured in the Psalter for a different reason, namely as a witness to the messianic hope which looked for the consummation of God's kingship through his Anointed One."[28] Fourth, this eschatological perspective is present in other psalms as well. The psalmists are constantly looking ahead to God's future

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D. Miller, Jr., eds., *Magnalia Dei, The Mighty Acts of God: Essays on the Bible and Archaeology in Memory of G. Ernest Wright* (Garden City: Doubleday, 1976) 377–88.

25 "Yet it is also evident that much of the history of the development [of the Psalter] remains obscure. Nor is it possible to determine with certainty the intention, if any, of the editors" (Childs, *Introduction*, 512).

26 Childs, *Introduction*, 514.

27 Childs, *Introduction*, 515.

28 Childs, *Introduction*, 517.

actions. "The perspective of Israel's worship in the Psalter is eschatologically oriented. As a result, the Psalter in its canonical form, far from being different in kind from the prophetic message, joins with the prophets in announcing God's coming kingship."[29] Fifth, further evidence for communal re-use of psalms comes from the change of the historical individual "I" to the corporate "we." Finally, the psalm titles function to historicize originally cultic psalms by linking them not only with historical persons but even with specific events in the lives of these historical persons. All these phenomena which Childs discusses lead to his conclusion that, whatever its historical and cultic setting(s), the Psalter must now be approached as a whole and interpreted canonically.

In terms of evaluation, there is much to commend here. Strictly speaking, however, Childs did not present a "redactional agenda" for the Psalter; he even doubts that one can be discerned! Nevertheless, without endorsing every point he makes, I would suggest that Childs moved the discussion of the Hebrew Psalter ahead aggressively; it remained for his students to fill in the specifics.

GERALD WILSON

One of Childs' students to take up this challenge of fleshing out a full-fledged redactional agenda of the Psalter is Gerald Wilson.[30] His major work on the subject is his book *The Editing of the Hebrew Psalter*.[31] He begins to discuss possible redactional agendas in chapter 6. He first discusses possible explicit statements in psalms headings as organizational criterion, and then he discusses non-explicit elements. With regard to explicit statements in psalm headings, Wilson makes the following observations:[32]

1. *Author* is not the primary organizational criteria.
2. *Genre* is not the primary organizational criteria, although genre does function to "soften" transitions from one author to another.
3. *Cultic Terminology* is merely obscured and therefore cannot function as the primary organizational criterion either.
4. *Historical References* simply refocus a psalm's context from cultic to individual historicized personages.
5. *Untitled Psalms* do not play a major role in editing either.

29 Childs, *Introduction*, 518.

30 Wilson's debt to Childs is evident; cf. *Editing*, 143–44; 171–72; 206–7.

31 Cf. recently, Nancy deClaissee-Walford, *Reading From the Beginning: The Shaping of the Hebrew Psalter* (Macon: Mercer University Press, 1997) who, while making independent contributions, relies heavily on Wilson's general thesis.

32 See Wilson, *Editing*, 155–81.

Concerning non-explicit elements, Wilson argues the following:[33]

1. *Doxologies* are not editorial additions, but they do coincide with other indications of book divisions.
2. *Hallelujah Psalms* conclude sections of groups of psalms, while *Hodu Psalms* begin sections of groups of psalms.[34]
3. *Thematic Grouping* is present, but subjective, and apparently not the controlling organizational criterion anyway.
4. *Similar Incipits*, although common in Ancient Near East hymnic collections, are only rarely employed in the Hebrew Psalter.
5. *"Catch Phrases"* are also present but extremely rare.[35]
6. Wilson finds some evidence for organization according to the *deity addressed*, largely in the so-called "Elohistic Psalter," but clearly this editorial technique does not predominate.

Wilson concludes this chapter by saying, "One is left to look elsewhere for indications of the editorial purpose behind the MT 150 arrangement."[36]

In chapter 7, Wilson puts forth his own proposal for a redactional agenda of the Hebrew Psalter.[37] He begins by suggesting that the primary evidence to be used in deciphering a redactional agenda is the Psalter itself, which means looking primarily at those aspects of the Psalter which most clearly exhibit editorial shaping; for Wilson, that means: 1. Psalm 1 as an introduction; 2. the five-fold book division; 3. the Final Hallel in Psalms 146–50. Let us then take each of these in turn.

33 Wilson, *Editing*, 182–96.

34 Wilson is clearly wrong with regard to Psalm 117, which, according to his scheme, should *conclude* a section of psalms, but Psalm 118 concludes the "Egyptian Hallel" by incorporating the themes of Psalms 113–17; moreover, the first verse of Psalm 107 forms an *inclusio* with the last verse of Psalm 118. Cf. also my dissertation *Circles of Context: An Interpretation of Psalms 107–118*, page 20, where I summarize Davis's reasons for classifying Psalms 107–18 as a redactional unit. Cf. Barry Craig Davis, *A Contextual Analysis of Psalms 107–118* (Ph.D. diss., Trinity Evangelical Divinity School, 1996) 8–11. Clearly, then, Psalm 118 does not start a new section within Book V of the Psalter.

35 He makes no mention of Brennan's work, which is largely based on the presence of "catch phrases." Brennan does call attention to examples that are hard to deny. It may be that Wilson is defining "catch phrases" too narrowly, while Brennan uses the term more loosely to describe *leitmotifs* and thematic connections. Nevertheless, Brennan does not claim that these *leitmotifs* are *the* organizing criterion, but the technique is clearly present.

36 Wilson, *Editing*, 197.

37 He first interacts with the proposal of some that the Psalter, with its five books, corresponds with the liturgical readings from the Pentateuch. Most of his criticisms of this proposal are

Wilson, following Childs, asserts that Psalm 1 tells us a great deal about the book, namely, that it is a book for *reading* as opposed to *performance*, that its contents determine *life and death*, that the response of the reader to its teaching determines whether the reader is *righteous or wicked*, etc.; however, Psalm 1 does not give us the *message* of the book.[38] The reader must discern the *message* from the five-fold book division.

Wilson makes a good case for the relative unity of Books I–III of the Psalter; for example, the psalms of these books are usually "titled" psalms and Books I–III end with royal psalms (41, 72, 89) while Books IV and V do not. Therefore, Wilson reads Book I–III together as a narrative unity. I let Wilson speak for himself here:

> [Book I] is a very Davidic group of pss in which the proclamation of YHWH's special covenant with his king in Ps 2 is matched by David's assurance of God's continued preservation in the presence of YHWH.
>
> So the covenant which YHWH made with David (Ps 2) and in whose promises David rested secure (Ps 41) is now passed on to his descendants in this series of petitions in behalf of "the king's son" (Ps 72) [=Book II].
>
> At the conclusion of the third book, immediately preceding the break observed separating the earlier and later books [i.e., separating Books I–III from IV–V], the impression left is one of a covenant remembered, but a covenant *failed*. The Davidic covenant introduced in Ps 2 has come to nothing and the combination of three books concludes with the anguished cry of the Davidic descendants.[39]

For Wilson, then, Psalm 89 ends on a very negative note, so negative, in fact, that Book IV must provide an answer. How can the Davidic covenant have failed? The answer provided in Book IV, which Wilson calls "the editorial 'center' of the final form of the Hebrew Psalter,"[40] is presented under four summary statements:

1. YHWH is king;
2. He has been our refuge in the past;
3. He will be our refuge now that the monarchy is gone;
4. Blessed are they that trust in him![41]

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sound (Wilson, *Editing*, 199–203).

38 Wilson, *Editing*, 204–7.

39 These quotes are from Wilson, *Editing*, 210, 211, 213, respectively.

40 Wilson, *Editing*, 215.

41 Wilson, *Editing*, 215.

Wilson then attempts to demonstrate that these themes are repeated throughout Book IV.

His discussion of Book V is less detailed, due in part to the composite nature of the material. Clearly the editor(s) has incorporated previously existing blocks of material into the Book, and this state of affairs limited his (their) editorial freedom. Nevertheless, Wilson makes a suggestion, the summary of which I quote:

> Following the lead of Ps 107, it seems that in some sense the fifth book was intended to stand as an answer to the plea of the exiles to be gathered from the *diaspora*. The answer given is that deliverance and life thereafter is dependent on an attitude of dependence and trust in YHWH alone (107:12–13, 19, 28). David is seen modeling this attitude of reliance and dependence in Pss 108–110 and 138–145 and is rewarded with YHWH's protection. Throughout, emphasis falls on YHWH's power and former acts of mercy (especially in the Exodus, cf. Ps 114) as evidence of his trustworthiness. This attitude of dependence on YHWH will issue in obedience to his Law, as set forth in the central *Torah* Ps 119, which is to serve as man's guide on the "way" of righteousness and life.
>
> Finally, David, in Pss 145–146, returns to the theme of YHWH's kingship that so dominates the formative Book Four and stands in tension with Pss 2–89. YHWH is *eternal* king, only *he* is ultimately worthy of trust. Human "princes" will wither and fade like the grass but the steadfast love of YHWH endures forever.[42]

Wilson's work on the divisions between the five books is sound. It is also true that Books I–III have a certain feel and appearance to them that distinguish them from Books IV–V. This makes the importance of Psalm 89 hard to deny. His discussion of the importance of Psalm 1 is accurate as well. He has established that the royal psalms function editorially at the seams of at least Books II (Psalm 72) and III (Psalm 89). In summary, it is hard to deny the importance of the Davidic covenant, and the questions surrounding its continuance, to the present shape of the Psalter. Essentially, Wilson has explained the redaction of the Psalter in terms of this issue.

Nevertheless, I want to raise a few questions that may weaken Wilson's suggestion as a proposal for the entire Psalter. First, how does he account for the many laments in Book I, the Book which was supposed to be a celebration of David's assurance? Wilson hardly touches Psalms 3–40 at all! How do these fit into his proposal? Another way of stating this objection is to suggest

42 Wilson, *Editing*, 227–28.

that perhaps Wilson has relied *too much* on the royal psalms at the seams. How does he understand Psalms 42–71, and Psalms 73–88? I wonder if Wilson has ended up pitting the *seams* against the *material*. The *cloth*, as it were, of the Book in question should have some relation to its *seam*, but Wilson has not elucidated this relationship.

Second, Wilson makes no mention of messianism or eschatology at all. This may stem from the rigorous separation he makes between Psalms 1 and 2. He insists that Psalm 2 heads Book I by introducing the idea of covenant, and does not play a role in introducing the book of Psalms as a whole.[43] He follows Willis's argument for the independence of Psalm 1 completely and fails to notice that Willis is arguing more on the grounds of original *Sitze* as opposed to editorial placement. Certainly the two psalms are separate literary creations, but, as Auffret has shown,[44] there is a strong case for asserting their complementarity in introducing the Psalter as a whole. If this is allowed, the expectation created by Psalm 2 is that the Psalter will also include discussion of God's eschatological kingdom and the messiah. Wilson even seems to ignore blatantly eschatological passages like Psalm 110. Is this merely a Davidic paradigm of walking in faith? What about Psalm 132 where the very theme of Psalm 89 is taken up and apparently answered by appeal to a Davidic messiah? What is more, Wilson's major point, that Psalm 89 creates a problem that must be answered, seems to *demand* an eschatological answer.

Others have expressed objections as well. Mitchell, for example, registers three main criticisms. First, Mitchell observes that Wilson's contention that the Davidic covenant has come to ruin does not mesh with the reappearance of "David" in Book V, on the throne and conquering. Second, it is difficult to understand the Psalter's purpose as simply to exhort Israel to trust YHWH's word when that is the very thing that has proven untrustworthy! As Mitchell writes: "[T]he redactor seems deliberately to emphasize their failure, and God's falsehood, in vividly representing the disappointment of their hopes. Is it for this celebration of divine disloyalty and incompetence that jubilant halleluyahs close the Psalter?"[45] Mitchell's third objection is a historical one. When, asks Mitchell, did such a bleak assessment of the future of the House of David prevail in Israel? There does not appear to be a likely historical period in which this kind of redaction could arise; quite the contrary, as Mitchell shows, the expectation of a Davidic restoration continued well into the second temple period.[46]

43 Wilson, *Editing*, 205–7.

44 Pierre Auffret, *The Literary Structure of Psalm 2*, JSOTSup 3 (Sheffield: The University Press, 1977). See also Cole's overstatement of the case in Cole, "An Integrated Reading."

45 Mitchell, *Message*, 80.

46 Mitchell's criticisms are found in *Message*, 78–81.

In summary, then: There is much in Wilson to be accepted; he has laid the foundation for any subsequent discussion of the Psalter's redaction. However, we cannot accept his proposal *in toto* for a redactional agenda of the entire Psalter.[47]

JOHN H. WALTON

In a single article, John Walton has put forward a proposal for the Psalter's redactional agenda.[48] After summarizing and accepting much of Wilson's work, Walton suggests as a "working hypothesis"[49] that the Book of Psalms is "a cantata around the theme of the Davidic covenant."[50] He understands Psalms 1–2 as introductions to the book emphasizing the themes of 1. vindication of the righteous and 2. theocratic sponsorship of the Israelite (Davidic) king. Then, the themes of the individual books are suggested: Book I (3–41) emphasizes David's Conflict with Saul. Walton attempts to establish links between the Psalms of Book I and the narrative of 1 Samuel. Book II (42–72) follows chronologically by emphasizing David's reign. Walton finds links with the narrative of 2 Samuel. Book III (73–89) is "the most difficult to assess," admits Walton.[51] He explains the presence of the Korahite and Asaph Psalms as corresponding to the Assyrian crisis of the late eighth century B.C.E. However, Psalm 89 does not refer to the destruction of Jerusalem, but to the Assyrian siege by Sennacherib in 701. Book IV (90–106) centers around the theme "introspection about the destruction of the temple and the exile." Finally, Book V (107–45) contains praise and reflection on the return and the new era. However, very little mention is made of eschatology. Psalm 119 is the dominant message pointing to Law-obeying piety as the key solution to the exile. Psalms 146–50 constitute a conclusion of the Psalter centering on praise.

Walton's proposal has been examined and generally found wanting. Gerald Wilson charges that Walton's initial idea of a "working hypothesis" is too subjective. "Working hypotheses are a valid and useful means of research in the sciences where they can be tested repeatedly through experimentation in a controlled environment. They are, however, much more problematic in literary analysis where they can have the unfortunate effect of providing self-fulfilling prophecies."[52] Wilson regards Walton's connections between the Psalter and

47 Wilson's proposal has been modified and supplemented; see the essays in McCann, *Shape and Shaping of the Psalter*.

48 John H. Walton, "Psalms: A Cantata About the Davidic Covenant," *JETS* 34 (1991) 21–31.

49 Walton, "Psalms: A Cantata," 23.

50 Walton, "Psalms: A Cantata," 24.

51 Walton, "Psalms: A Cantata," 27.

52 Gerald H. Wilson, "Understanding the Purposeful Arrangement of Psalms in the Psalter: Pitfalls and Promise," in J. Clinton McCann, ed., *The Shape and Shaping of the Psalter*, JSOTSup 159 (Sheffield: JSOT Press, 1993) 44.

the Samuel narrative too tenuous to be convincing. Mitchell, too, has registered criticisms, mostly surrounding the "gaps" which Walton's reconstruction leaves in the history of Israel, i.e., the Fall of Jerusalem in 587/6 B.C.E.[53]

It is clear that Walton has not made the case for the lexical connections between Psalm and narrative that are necessary if his proposal is to be accepted. Also, he has downplayed the significance of Psalm 89 at the end of Book III. The finality of the language used in Psalm 89 demands a robust answer that Walton's proposal does not provide. Finally, although Walton mentions the significance of Psalm 2, he has not developed a clear eschatological theme concerning the Davidic dynasty in the Psalter.

WALTER BRUEGGEMANN

In a stimulating article,[54] Walter Brueggemann has proposed that the present shape of the Psalter leads us to the redactional agenda in this way: at the beginning of the Psalms is Psalm 1, which "presents a morally coherent world"[55] of Torah obedience which leads to well-being and prosperity; the Psalms end with Psalm 150, "the most extreme and unqualified statement of unfettered praise in the Old Testament."[56] These are the themes that "bound" the Psalter: obedience and praise. Between these two poles, however, one encounters a complicated world. God's *ḥesed* is questioned in Psalm 25 and celebrated in Psalm 103. Brueggemann suggests that Psalm 73 is a crucial juncture in the shape of the Book of Psalms and in Israel's move from obedience to praise.

> Psalm 73 stands distinctively and paradigmatically in the difficult, demanding pilgrimage of Israel's faith from obedience to praise. Thus I suggest that in the canonical structuring of the Psalter, Psalm 73 stands at its center in a crucial role. Even if the Psalm is not literarily in the center, I propose that it is central theologically as well as canonically.[57]

Brueggemann stresses the importance of Psalm 73 partly because of Wilson's idea of the importance of the "seams" of the books of the Psalter. As Wilson has argued, Ps 72:20 is the only *explicit* evidence of editorial activity, and ends Books I–II. Moreover, Psalm 72 is a psalm exhorting the king to embrace righteousness and justice, an exhortation which the narrative of 1 Kings 11–12 demonstrates was not heeded by Solomon, resulting in a painful division of the

53 Mitchell, *Message*, 81–82.

54 Walter Brueggemann, "Bounded by Obedience and Praise: The Psalms as Canon," *JSOT* 50 (1991) 63–92.

55 Brueggemann, "Bounded by Obedience and Praise," 65.

56 Brueggemann, "Bounded by Obedience and Praise," 67.

57 Brueggemann, "Bounded by Obedience and Praise," 81.

country. Therefore, Psalm 73 would appear to address this historical problem, and its apparent discord with the way of wisdom espoused in Psalm 1.

Brueggemann then analyzes Psalm 73, pointing out the disputive character of the work; first, the re-statement of the "Psalm 1 principle" (verse 1); second, the questioning of that principle (verses 2–13); third, the experience in the sanctuary of God which reorients the psalmist (verses 14–17); fourth, the reaffirmation of the principle but in an altered form (verses 18–28). As Brueggemann writes,

> No judgment is finally made whether the world is morally coherent or not, whether Psalm 1 is true or not, whether Ps. 73:1 is sustainable or not. It is enough that the God of long-term fidelity is present, caring, powerful and attentive.... Now the 'goodness' treasured is not material blessing but God's own self. That is enough for the speaker, and for the faith with the Psalms. The Psalter assumes the moral coherence of torah piety, but moves beyond that piety of obedience to trustful communion.[58]

There are many other fascinating aspects to Brueggemann's article which we cannot explore here.[59] In terms of a redactional agenda, however, what can we say about Brueggemann's proposal? He is certainly to be commended for picking up on Wilson's idea of the "seams" of the books in the Psalter and attributing significance to both sides of the "seam." If Psalms 2, 72 and 89 are significant, *by virtue of their presence at the "seams,"* why are not Psalms 42–43, 73, 90, 107 also important? Their significance seems to be borne out by the unique characteristics of Psalm 73, to which Brueggemann rightly draws attention. He also makes helpful and insightful comments on a possible theological movement within the Psalter, from unqualified acceptance of the "retribution principle" of Psalm 1 to unqualified expression of praise in Psalm 150. There is much more thinking to be done along these lines.

However, we can ask several questions about the adequacy of Brueggemann's proposal for the entire Psalter. First, if the "problem" has been solved at Psalm 73, how do we explain the presence of "suffering" psalms that appear *after* Psalm 73? Indeed, many of the psalms that follow Psalm 73 in Book III continue to express painful doubts about God's goodness, his faithfulness to his promises, his desire to care for and restore Israel, etc. How are these to be understood? Perhaps the most significant of these psalms of complaint that appear after Psalm 73 is Psalm 89; no one can deny the theological and historical importance of this catastrophic psalm. How should we read Psalm 89 in light of the "solution" of Psalm 73? Second, we can ask the same question

58 Brueggemann, "Bounded by Obedience and Praise," 86, 87.

59 For example, it would be very interesting to compare Brueggemann's understanding of the theology of Psalm 73 et al. with the theology of the book of Job; cf. his many footnotes which allude to this idea.

with regard to the psalms which continue to affirm the "retribution principle" after Psalm 73, an example of which is Psalm 112. Third, Brueggemann makes no mention of eschatology in the Psalter, yet it is undeniably present. Should not eschatological concerns contribute to the solution of a moral conundrum such as we find in Psalm 73? Ultimately, Brueggemann's proposal is a "wisdom" proposal, suggesting we filter the Psalter through a sapiental grid.[60] This may certainly be a prominent theme of the Psalter, but is it sufficient to explain the entire redactional agenda of the Psalter?

GERALD SHEPPARD

Another student of Childs, Gerald Sheppard, has written an essay on the Book of Psalms in which he puts forth a canonical approach. The essay was published in a book which addressed the nature of Scripture in general with special reference to the theological controversies within the United Church of Canada. As such, Sheppard's book as a whole is not a work on the Hebrew Psalter, but the second essay in the book, entitled "Psalms: How Do the Ordinary Words of Women and Men Become God's Word to Me?" addresses at length the nature of the Book of Psalms.[61]

First, following Childs, Sheppard contends that the psalms are works of poetry that were elevated to the level of Scripture by their interpretive community. Psalm 2 is his example of this process, a royal psalm, probably originally used in an enthronement festival, reappropriated to introduce a dominant theme in the Psalter, namely royal Davidic ideology and eschatology. Second, noting the tight literary relationship between the two poems, he argues that Psalms 1 and 2 should be understood as a dual introduction to the entire book. He writes:

> Therefore, Psalm 1 has underscored the biblical subject matter of torah and wisdom, just as Psalm 2 highlights the idiom of prophecy. In other words, the two psalms together present the entire book as a resource for torah, prophecy and wisdom. The subject matter of the prayers in the Psalms is here declared to be the same as that of the rest of Jewish scripture![62]

Third, Sheppard observes that the unity of Books I–III, despite the apparent diversity, centers around the three dominant personages mentioned in the

60 Cf. also J. Kenneth Kuntz, "Wisdom Psalms and the Shaping of the Hebrew Psalter," in *For A Later Generation: The Transformation of Tradition in Israel, Early Judaism, and Early Christianity* (Harrisburg, Pa.: Trinity Press International, 2000) 144–60.

61 The book is: *The Future of the Bible: Beyond Liberalism and Literalism* (Toronto: United Church of Canada, 1990).

62 Sheppard, *The Future of the Bible*, 69.

superscripts: David, Korah, and Asaph. The dominance of these three names gives a prophetic slant to the redaction of the Psalter because in Chronicles, these people are understood in prophetic categories (cf. 1 Chronicles 25:1–3; 2 Chronicles 29:30).

Fourth, Sheppard observes the "five-book" structure of Psalms and emphasizes the importance of the break between Book III (Psalm 89) and Book IV (Psalms 90 and 91). Psalm 91 was reinterpreted messianically due to its proximity to the end of Book III as an answer to the final lament of Book III.

Fifth, because of the centrality of David in the Psalter as a whole, Sheppard calls attention to the portrayal of David in the Psalms as "the great synthesizer of the truths of scripture." I quote him at length:

> The identity of David is also significant because he plays a role elsewhere in scripture as the person most intimately involved with the organization of Israel's worship. In other parts of the Bible David is depicted as a person who is obedient to the law, endowed with prophetic powers, and skilled as a wise king. This background underlies all later messianic hope that longs for a son of David who would fulfill all the major offices of scriptural witness – prophet, priest, king, and sage – and, concomitantly, master all the subject matter of revelation. Accordingly, David is portrayed as the great synthesizer of the truths of scripture. Beyond offering us models of prayers, the book of Psalms – as the introduction of Psalms 1 and 2 make clear – present these prayers as objects of meditation and study, and as inner-biblical commentary on the torah, prophecy, and wisdom.[63]

Sheppard's discussion is stimulating on a variety of fronts, but with specific reference to his treatment of the Psalter, what can we say? First, it is clear that it is not Sheppard's purpose to work out his proposal in detail; in fact, his proposal is set in the context of a discussion about the nature of Scripture in general, and serves mostly to further *that* agenda; admittedly, then, he has not put forth and spelled out in detail a rigorous program for the Psalter. However, he has made some helpful comments. Attention has already been drawn to the importance of Psalm 1 to the Psalter, but Sheppard includes Psalm 2 as well in this introductory role. The literary case for reading them together is strong.[64] The effect of including Psalm 2 in the introduction is to give legitimacy to eschatological concerns throughout the Psalter. As we have seen, eschatology is present, and others have been criticized for ignoring it; but Sheppard's analysis lends credence to this emphasis. Finally, and this is a point to which we must return later, Sheppard has demonstrated that Psalms 1 and 2 together set the

63 Sheppard, *The Future of the Bible*, 86–87.

64 Cf. Auffret's work, *Literary Structure of Psalm 2*.

Psalter in a context which includes *torah* ("the Law of the Lord"), *wisdom* ("Blessed is the man"), and *prophecy* ("I will make the nations your inheritance"). Sheppard weakens his analysis by ignoring the most obvious component of the Psalter, namely praise. This may stem from his omission of any discussion of Psalms 146–50. Certainly a book's conclusion should be just as important as its introduction, but this consideration does not enter into Sheppard's analysis.

JEROME F. D. CREACH

Jerome Creach, a student of James Luther Mays, has put forth a proposed agenda for the Psalter which builds upon the work of others.[65] He accepts Wilson's idea that Psalms 90–150 respond to the theological problem presented by Psalm 89.[66] Nevertheless, Creach contrasts his approach with others:

> Instead of examining the Psalter from the perspective of a certain type of psalm (i.e., Mays) or from the vantage point of breaks between collections (i.e., Wilson), this study evaluates the shape of the book in light of a common and recurring idea ('refuge') that appears early on as an apparent part of an editorial plan. . . . This study attempts to show that 'refuge' is central to the shape of the Psalter, both in the general sense of the 'thought world' of the book and in the more specific sense of literary structure.[67]

Creach goes on to develop his thesis as follows: In chapter 2 of his book, Creach engages in linguistic analysis of the "word field" of 'refuge' which includes a wide variety of other terms. These terms constitute, for Creach, "a universe of terms" which have "grown together to communicate the common idea of dependence on Yahweh over against other sources of protection." This "universe" of terms "relates virtually every aspect of devotion to Yahweh: the nature of the believer, confessions of godly persons, requirements of rectitude, and the character of Yahweh himself."[68] In chapter 3, Creach largely devotes his attention to analyzing the origin of the metaphor(s) of 'refuge' in the light of historical issues, but he also traces the development of the metaphor with reference to other concepts of personal piety, concluding: 1. that the transition from a national policy of seeking refuge in Yahweh to personal devotion is a late development and can be seen in late psalms; and 2. that the aligning of the concepts of obedience to God's torah and Yahweh's refuge "provides a clue as to how Yahweh's instruction was understood and how the Psalter was meant to be

65 Jerome F. D. Creach, *Yahweh as Refuge and the Editing of the Hebrew Psalter*, JSOTSup 217 (Sheffield: Sheffield Academic Press, 1996).

66 Creach, *Yahweh as Refuge*, 18.

67 Creach, *Yahweh as Refuge*, 18–19.

68 Creach, *Yahweh as Refuge*, 48.

read: the contents of the Psalter seem to be intended as a guide to a life of dependence; the most concrete way of expressing such reliance was in the study of tora."[69] In chapter 4, Creach attempts to demonstrate how the word field of 'refuge' has influenced the present shape of the Psalter. First, he establishes the last sentence of Psalm 2 ("Blessed are all who take refuge in him") as redactional; then, he traces the occurrence of this field in Psalms 3–41. Moreover, if Psalms 1 and 2 are to be read together as an introduction to the Psalms, Psalm 1 then adds to this emphasis on personal piety in seeking God as one's refuge. He attempts to argue that the 'refuge' field is important for the shaping of all the books of the Psalter, though it is not entirely self-evident how this happened. In chapter 5, Creach attempts to establish the history of at least portions of the psalms, the order and date of redactional stages, based on inner phenomena; he admits that his conclusions are more tentative here than in other chapters.[70]

Creach's analysis of the 'word field' of 'refuge' and like terminology is a helpful thematic study. It cannot be doubted that 'refuge' and its linguistic and thematic relatives play an important role in the teaching and theology of the Psalter, and this is Creach's best contribution. One expects that similar analyses of vocabulary 'clusters' would be helpful, say of 'nations/enemies,' or 'pray/call out/ask.' Moreover, the redactional "blessed are all who take refuge in him" of Ps 2:12d leads us to expect a thematic emphasis on "God as refuge." Assured results diminish, however, in the other aspects of his study. One problem is that the actual occurrences of "refuge" are heavily concentrated in the early part of the book, so it is hardly likely to be thematic for the whole.[71] Another problem is that the broader one defines the 'word field,' the easier it is to demonstrate its influence in a corpus, but at the same time the broader the field, the less convincing it is that we are talking about a single theme. As one reads Creach's work, the concept of 'Yahweh as refuge' grows to the point that it can include almost any instruction a psalm gives to its readers; the focus on a single theme becomes confused. With such a broad 'word field,' it becomes difficult to understand how we can speak meaningfully of its influence on a redactional agenda. It is easy both to claim and to prove that 'refuge' is a significant theme in the Psalter; it is just as easy to claim but much harder to prove that it is more than that.

DAVID C. MITCHELL

The most ambitious proposal for the redactional agenda of the Psalter to date is the work of David Mitchell, detailed in his book *The Message of the Psalter: An Eschatological Programme in the Book of Psalms*. In chapter 2, Mitchell puts

69 Creach, *Yahweh as Refuge*, 73.

70 Creach, *Yahweh as Refuge*, 106.

71 The statistics are: 19 times in Books I–II; 5 times in IV–V and none at all in Book III.

forth a preliminary case for an eschatological understanding of the Psalter.[72] He makes four main points:

1. The historical period in which the Psalter was redacted was one of high eschatological consciousness. The limits of this time period, says Mitchell, are the end of the exile and the LXX. The redactors of the Psalter shared the eschatology of Ezekiel, Zechariah, 1 Enoch, Tobit, the Testament of 12 Patriarchs, the Sybilline Oracles, and other literature at Qumran.

2. The authors of the psalms are considered prophets and are discussed in prophetic categories elsewhere in Scripture (cf. 2 Sam 23:2–4, 1 Chr 25:1–3; 2 Chr 29:30). Moreover, "the essence of Israel's view of prophecy was that historic events prefigure future ones."[73] So even historical personages and events can be predictive.

3. Only eschatology can explain what Mitchell calls the "ultimate" language present in some of the psalms. The descriptions of a super-hero king and his *malkut* defy simple historical or literary explanations.

4. The inclusion of royal psalms *at all* implies some kind of hope; but these royal psalms are not only present, they are placed prominently, as Wilson has shown, at the "seams" of the books of the Psalter. Surely this leads us all the more to expect an eschatological emphasis.

In subsequent chapters, Mitchell attempts to establish the eschatological orientation of the Psalter by comparing the "eschatological programmes" contained in prophetic writings to two major groups of Psalms, the Psalms of Asaph (50, 73–83) and the Psalms of Ascents (120–34). These two groups of Psalms then fit into a "programme" as integral components. The Psalms of Asaph depict 1. the ingathering of scattered Israel from exile and 2. the ingathering of hostile nations against Jerusalem. The Psalms of Ascents depict the gathering of Israel and nations to celebrate Sukkoth on Zion.[74]

The Asaph Psalms (Psalms 50, 73–83)
Ingathering of scattered Israel from exile
Ingathering of hostile nations against Jerusalem

The Ascents (Psalms 120–34)
Gathering of Israel and nations to celebrate Sukkoth on Zion

72 Mitchell, *Message*, 82–87.
73 Mitchell, *Message*, 84.
74 Cf. Mitchell, *Message*, 297 for the following chart.

Further, Mitchell attempts to broaden the correspondences between the programme of Zechariah 9–14 and Psalms.[75]

Psalms	*Zechariah 9–14*
45	Bride-groom-king comes to Daughter Zion
Psalms of Asaph *50*	Gathering of scattered Israel to Jerusalem
72	Temporary messianic *malkut*
73–83	Hostile nations gather against Jerusalem
89	The king cut off
Book IV *90–106*	Israel exiled in desert. Gather and return to Zion
110	Rescue by king messiah
The Hallel *111–18*	Paeans of messianic victory; the hero's welcome
The Ascents *120–34*	Ascent of Israel and all nations to Sukkoth on Zion in messianic *malkut*. Includes royal Psalm 132.

Mitchell has sketched out a broad eschatological programme from the prophets that does indeed appear to have sweeping correspondences with portions of the Psalter. His evidence of "ultimate" language in the Psalms of Asaph is persuasive. Once the intertextual link between Psalms 120–34 and Zechariah 14 is granted, the correspondences between the eschatological Sukkoth in Zechariah and the festival described in the Ascents is also quite convincing. His analysis of messianic expectation in the prophets, and certain correspondences between that expectation and what is described about the king in the Psalms is also compelling at many points. Indeed, Mitchell's work repays careful study at most points.[76] While most of Mitchell's case is compelling, there are, however, a few points at which his overall thesis can be questioned. First, are there sufficient *internal* indications of an eschatological orientation within the Psalter itself? Very few would question the presence of an eschatological theme, but does this theme *control* the Psalter's structure? Second, how does the rest of the Psalter fit into the eschatological programme? Very little mention is made of Book I; does the "eschatological programme" start only at Psalm 45 or so? How does Psalm 22, which many traditions have understood escha-

75 Cf. Mitchell, *Message*, 298 for the following chart.

76 One aspect of Mitchell's work that we have not mentioned is his mastery of the history of interpretation; he often buttresses his own conclusions with citations of NT, Rabbinic, and other early sources that embrace a similar eschatological orientation. This is helpful because the earliest written exegetical traditions (especially Qumran, and perhaps NT) may be virtually contemporary with the redaction itself, and therefore may demonstrate a similar ideology.

tologically, fit into the scheme? Third, at points, one gets the sense that Mitchell has foisted an eschatological programme on psalms that do not lend themselves to an eschatological perspective. For instance, Psalm 89 depicts, according to Mitchell, the temporary "cutting off" of the eschatological king, but there is little indication of this from within the Psalm itself. In fact, the entire perspective of the Psalm, and the rationale for its placement at the end of Book III, appears to be the unthinkable theological problem of God having broken his promise concerning the continuity of the Davidic line. Certainly it is true that the Psalm expects an eschatological solution to this theological problem, but Mitchell is arguing for more. Not only does the Psalm *expect* a future king, it *actually describes* that king and his being "cut off" *in the future*. In my view, Mitchell misunderstands this lament and its significance in the Psalter.[77] In conclusion, we might say this: if others have neglected and undervalued the role of eschatology in the Psalter, Mitchell has overcompensated for this neglect to the point of forcing psalms into an eschatological mold into which they simply do not fit. The effect at times is to distort the plain meaning and language of the psalm. Mitchell's proposal cannot in the final analysis explain the entire structure and contents of the Hebrew Psalter.

The Redactional Agenda
Three Dominant Trajectories

We have examined several proposals for the redactional agenda of the Psalter. As we have seen, each proposal has points in its favor (see the table below for a summary). We have also seen that each proposal suffers from flaws that inhibit its acceptance as the correct explanation of the redaction of the Psalter. At this point, we could either conclude that a redactional agenda with sufficient explanatory force has not yet been found or that a redactional agenda, though possible, is not discernable.

Both of these conclusions are possible based on the above survey. However, before drawing conclusions, we need to make an important observation concerning most of the above proposals: Many of the previous proposals are exclusive in nature and demand that their idea explains all the structure and content of the Book of Psalms in its present form; yet all of these proposals, while making many excellent points, fail to do so.

I would suggest that the search for a single agenda is a misguided search because there is not one dominant, driving agenda, but rather a collection of

77 Psalm 89 probably frames Book III together with Psalm 73. The result is that Book III begins with difficult questions in a wisdom framework and ends with difficult questions in a royal framework, but the question is the same: how can God be faithful to his promises when the wicked prosper and the righteous suffer? The expectation is that the answer to this question will be expressed in both wisdom and eschatological terms.

	Pros	*Cons*
Brennan	Recognized importance of Psalms as a book Stressed Psalms 1 and 2 as an introduction Recognized "catch word" method of psalms arrangement	Does not demonstrate his thesis consistently Ultimately his treatment is helpful but too brief
Childs	Seminal discussion of canonical issues with re: to Hebrew Psalter (emphasis on secondary setting) Importance of Psalm 1, Royal Psalms, eschatology	Too general Offered no redactional agenda
Wilson	Seminal application of Childs' thesis Sound methodology Demonstrated purposeful redaction via headings, seams, etc. Importance of Royal Psalms, and Davidic kingship	No acknowledgment of eschatology His redactional agenda is unconvincing
Walton	Good emphasis on importance of Davidic covenant and Royal ideology	"Working hypothesis" is methodologically unsound Does not prove lexical links between psalm and narrative Weak treatment of Psalm 89

themes. These themes take turns coming to the foreground and receding into the background. Viewed from this perspective, the quest for a single unifying redactional agenda of the Psalter is akin to the search for a single, unifying theme or center in Old Testament Theology.[78] Many proposals were

78 Cf., e.g., Gerhard Hasel, *Old Testament Theology: Basic Issues in the Current Debate* (4th ed.;

	Pros	*Cons*
Brueggemann	Stimulating canonical analysis Helpful thematic analysis of Psalm 73 Recognizes importance of "wisdom" motifs	His redactional agenda is too simplistic to explain all data in the Psalter Ignores eschatological element
Sheppard	Good canonical discussion Stresses importance of Psalms 1 and 2 Acknowledges eschatology	Treatment is too brief to develop a redactional agenda No discussion of prayer/praise
Creach	Excellent thematic study of 'refuge' word-field Good analysis of "wisdom" themes (i.e., Torah piety)	'Refuge' idea becomes too broad Does not explain sufficiently the present shape of Psalter
Mitchell	Excellent discussion of inter-textual issues Strong support of eschatological content in the Psalter	Over-emphasis on eschatology Leaves much of the Psalter unexplained

put forth, but few, if any, could explain everything. Rather, dominant themes could be identified quite easily and analyzed as such. With reference to the

Grand Rapids: Eerdmans, 1991); Walter C. Kaiser, *Toward An Old Testament Theology* (Grand Rapids: Academie Books, 1978) 20–40. More recently, cf. Carsten Vang, "'Der HERR ist einer!' Von der Einheit und der Verschiedenheit in der Theologie des Alten Testaments," *EuroJTh* 4 (1995) 145–60.

Psalter, then, the interpreter should be looking for the dominant themes of the book and following their trajectories across the shape of the book as we now have it. This will yield a coherent explanation of the whole without demanding a single, unifying theme as the only redactional agenda. We cannot explain the diversity of material in the Psalter by an appeal to one rubric; any agenda proposed must therefore be broad enough to encompass all the parts but also specific enough to be stated cogently and concisely.

A proper understanding of the Psalter in its present form should acknowledge the existence of several dominant trajectories.[79] What are these trajectories? We begin with a suggestion made by Gerald Sheppard. He noted the dual introduction of Psalms 1 and 2 and concluded that this dual introduction focuses on the themes of Torah, Wisdom, and Eschatology. Although we criticized him for not discussing the role of praise, his discovery of a collection of themes was very helpful. Perhaps this idea needs some development. Can we explain the content and structure of the Psalter by pointing to a variety of concerns that pervade the book?

The first trajectory is wisdom. We have seen from previous studies that Psalm 1 casts the Psalter in a 'wisdom' frame, creating the expectation of wisdom themes. Readers are exhorted to live in such a way as to separate themselves from the wicked and to align themselves with the righteous by meditating on God's Torah. Creach has shown that the concept of "seeking refuge in Yahweh" can be broadened, to a certain extent, to include other elements. Brueggemann has highlighted the tension this creates when readers encounter the world around them, a tension no doubt reflected in the Book of Psalms itself. The first undeniable trajectory of the Psalter is the sapiental, the themes of which are right living and theodicy.

Second, as Mitchell has shown, there is a clear eschatological element in the Psalter which flows from the structural prominence of Psalm 2. The theme of judgment beginning in Psalm 1:5 and reaching to the end of the Psalter in Psalm 149, the "ultimate" language of certain psalms, the discussion, beginning in Psalm 2, of God's *malkut*, and the prominence of God's anointed Davidic messiah can all be traced throughout the Psalter. Wilson and Walton's work emphasizes the importance of royal psalms and the Davidic covenant, both

79 For the idea that the themes of the Hebrew Bible can be grouped under four main trajectories, cf. Ronald J. Allen and John C. Holbert, *Holy Root, Holy Branches: Christian Preaching from the Old Testament* (Nashville: Abingdon, 1995). They delineate what they call "four trajectories within the Old Testament," which are: 1. the Deuteronomic Trajectory (the Choice of Love); 2. the Priestly Trajectory (the Way of Holiness); 3. the Dual Trajectory of Wisdom (the Way of Order and the Way of Questioning); and 4. the Trajectory of Apocalypticism (the Way of Radical Hope). In this way, Allen and Holbert urge Christian preachers to understand Old Testament texts as belonging to one of these trajectories. For some of their ideas, Allen and Holbert are indebted to Waldemar Janzen, *Old Testament Ethics: A Paradigmatic Approach* (Louisville: Westminster John Knox, 1994).

of which contribute to the eschatological concerns. The second undeniable trajectory of the Psalter is the eschatological, the themes of which are covenant, kingdom, justice and messiah.[80]

Third, as Brueggemann emphasizes in his article, the driving goal of the book appears to be the transformation of lament into praise of God, as in Ps 30:12–13. Whatever themes may surface throughout the book, the redactor(s) moves the reader toward unhindered praise of YHWH. The primacy of worship surfaces in the conclusion of the book as a third trajectory in the book of Psalms.[81]

These three dominant trajectories yield a summary statement such as the following: The Book of Psalms teaches the community of faith to live in a world full of enemies and evil, death and disappointment, by trusting in God's character and word [wisdom]; by waiting for God's eschatological kingdom which he will establish through his messiah [eschatology]; and by worshipping him for the splendor of his person and the majesty of his works [worship].

Conclusion

This proposal of three dominant trajectories attempts to acknowledge the valid insights and contributions of previous studies. I acknowledge the role of wisdom themes due to the prominent placement of Psalm 1 (right living, righteous vs. wicked, the "way," meditation on God's Torah, taking refuge in God, etc.) as well as the eschatological elements due to the placement of Psalm 2 (royal ideology, God's anointed, God's kingdom, etc.) which are reinforced by the prominent placement of royal psalms at several of the seams of the five book structure. Finally, I acknowledge the role of prayer/praise which is stressed not only by the content of many individual psalms but also by the conclusion of the Psalter as a whole (Psalms 146–50). However, the structure of the whole is not placed at odds with the content of its parts. Each component is allowed to contribute to the building of its own particular theme in the context of the Psalter; at the same time, we can still speak meaningfully of a redactional agenda. Therefore, in the study of the biblical psalms, the interpretive task includes a consideration of the unique contributions of each psalm to the overall redactional agenda, an agenda that highlights wisdom, eschatology, and worship.

I wish to acknowledge my gratitude to Drs. Alan Cooper and Samuel Greengus for their supervision of my research on the Psalms.

80 Zenger notes that Book v of the Psalter is the most eschatological of the five ("The Composition and Theology of the Fifth Book of Psalms, Psalms 107–150," *JSOT* 80 [1998] 81–82).

81 Zenger notes that a hymnlike mood pervades all of Book v of the Psalter ("Composition and Theology," 78).

The Temple Mount, the Rabbis, and the Poetics of Memory

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In a good deal of rabbinic literature the sages convey information, both directly and indirectly, about their past as individuals, a group, and a nation. Scholars in the last century and a half have invested tremendous effort in weighing the credibility of these records. This study explores a different angle of the historicity question, that of rabbinic collective memory, the set of conventions and images that organizes narratives and discourses about the past. Portrayals of the Temple Mount in tannaitic literature create the impression that they derive from the milieu of Second Temple Judaism. Rabbinic sages in the post-70 era present a picture of the Temple Mount as an essential part of the preceding Second Temple Jewish experience and an inseparable part of reality in that earlier generation's consciousness. The current study refutes this wide spread notion; it maintains that the authors of rabbinic literature endowed a relatively peripheral biblical appellation, namely the term "Temple Mount," with an aura of holiness and transformed it to represent a concept of sacred space. This innovative development led them to redesign their view of the present and at the same time remake their memory of the past.

Memory is always problematic, usually deceptive, sometimes treacherous.[1]

In a good deal of rabbinic literature – generally seen as spanning the first few centuries after the destruction of the Second Temple (70 C.E.) and usually subdivided into tannaitic (c. 70–220) and amoraic (roughly 220–600) texts – the sages convey information, both directly and indirectly, about their past as individuals, a group, and a nation. Scholars in the last century and a half have invested tremendous effort in weighing the credibility of these records. In particular the literature unearthed in Qumran has proven many of the views ascribed by the rabbis to early opponents in the Second Temple period rather accurate.[2] Consequently, the pendulum of the so-called historicity debate has swung from a romantic, and rather naïve, acceptance of most if not all the data to extreme skepticism and finally in the last decade or so has settled somewhere in between, ruptured into a variety of approaches and methodological models.

1 Y. H. Yerushalmi, *Zakhor: Jewish History and Jewish Memory* (New York: Schocken Books, 1989²) 5.

2 Among others, Lawrence Schiffman has accentuated this point in numerous studies. See, for example, L. H. Schiffman, "The Qumran Scrolls and Rabbinic Judaism," in P. W. Flint and J. C. VanderKam, eds., *The Dead Sea Scrolls after Fifty Years: A Comprehensive Assessment* (2 vols.; Leiden: Brill, 1999) 2:552–71.

In this study I wish not to return to this intriguing discussion but rather to explore a different angle, that of rabbinic collective memory, the set of conventions and images that organizes narratives and discourses about the past.[3]

Habits of remembering have received a great deal of attention in modern scholarship. Advances, especially in the fields of psychology and neurology, have clarified the elusiveness of this practice and consequently blurred what was thought to be a clear-cut line dichotomizing the present from the past.[4] We now know that these two seemingly separate elements of time (and factors of memory) constantly intermingle in a reciprocal dance, influencing and reshaping each other. Memory is one product of such processes, and history, in the words of one scholar, is the "art of memory."[5] Taking shape in assorted channels of expression, whether vocal, visual, or written, it is typified by its innovative character, which defines it as a separate entity, a third dimension of human experience.

In his monumental work *Les lieux de mémoire*, translated into English without catching the full sense of the phrase as "Realms of Memory," the French historian Pierre Nora establishes the leading role of physical places in the creation of collective memory. In his words "La mémoire s'accroche à des lieux comme l'histoire à des événements" [Memory fastens upon sites, whereas history fastens upon events].[6] Although Nora assigns "places of memory," the *loci memoriae*, a much wider definition than a particular confined space, he nevertheless devotes much of his discussion to untangling the convoluted interaction between inanimate sites and conscious recollections of people and communities about their past. Palpable objects, whether monuments, architectonic structures, or well demarcated areas, serve as magnets – organizing, classifying, and calibrating – for the more abstract reminiscences, as well as their spine, the internal adhesive substance that glues disparate details into cultural textures.[7] Reading this model backward, one may use memorable places and the traditions configured around them as a kind of porthole that

3 The most influential work on this topic remains Maurice Halbwachs's *La mémoire collective* (I have used the 1997 edition, which was up dated by G. Namer and M. Jaisson). Already also a classic for Judaic Studies is Yerushalmi, *Zakhor*. For a more postmodern take on the same issues, see the variety of studies collected in M. Bal, et al., eds., *Acts of Memory: Cultural Recall in the Present* (Hanover, N.H.: Univ. Press of New England, 1999).

4 The bibliography on these topics is too vast to list here. Ample references are offered in the studies listed in the above notes as well as below in n. 5. For the scientific aspect a good summary may be found in M. A. Conway, ed., *Cognitive Models of Memory* (Cambridge, Mass.: MIT Press, 1997).

5 P. H. Hutton, *History as an Art of Memory* (Hanover, N.H.: Univ. Press of New England, 1993).

6 P. Nora, ed., *Les lieux de mémoire* (3 vols.; Paris: Gallimard, 1984) 1:xxxix; L. D. Kritzman, trans. *Realms of Memory* (3 vols.; New York: Columbia Univ. Press, 1996) 1:18.

7 P. Nora, "Entre mémoire et histoire: La problématique des lieux," in *Les lieux*, 1:xvii–xlii.

allows a glance at the dynamics that shaped groups and societies. The following study attempts such a reading and explores the substance and nature of rabbinic memory regarding one such *locus memoriae* – an architectural structure called the Temple Mount.

Religion has always been inseparable from holy sites.[8] One of the most famous among the sacred spaces is the flat, trapezoidal, walled compound located on the eastern edge of Jerusalem's Old City (figs. 1 and 2:D). Commonly translated in English as "the Temple Mount," the literal translation of the original Hebrew *har ha-bayit* would be the "Mount of the House." The designation Temple Mount refers to both the topographical elevation, the hilly figure of the place, and to the architectonic layout in a shape of a huge precinct that sits on its top. Ancient Near Eastern monotheistic religions, Judaism and Islam in particular (but also Christianity), still revere the site as holy, and the faithful are careful to observe there special religious strictures and practices. How did this feature function in the world of the rabbis?

Introduction

It would be hard to overestimate the role of Jerusalem and the Temple in the worldview of the Jewish sages, also known as the rabbis, the famous group of Jewish intellectuals who produced the so-called rabbinic literature during the Roman and Byzantine periods.[9] Large portions of this corpus are devoted to these two places. Admittedly, the hexagonal structure of the Mishnah – the prime tannaitic text, which, along with the biblical sequence, became the standard format for organizing rabbinic material – does not include a separate division of a "Temple Order," comparable to, for example, the "Orders of Damages" for financial issues or "Women" for family matters. The division entitled "Order of Holy Things," however, contains such tractates as "Daily Sacrifice" (*Tamid*) and "Dimensions of the Temple" (*Middot*). Likewise, although no ancient rabbinic text has ever been named "The Jerusalem Midrash," there is, for example, the composition *Lamentations Rabbah*, almost entirely devoted

8 See, for example, M. Eliade, *The Sacred and the Profane: The Nature of Religion*, trans. W. R. Trask (San Diego, Calif.: Harcourt Brace, 1959) 20–65; J. Z. Smith, *To Take Place: Toward Theory in Ritual* (Chicago: Univ. of Chicago Press, 1987).

9 An inclusive summary of the allusions to Jerusalem in rabbinic literature with references to previous collections and scholarly discussions is I. M. Gafni, "Jerusalem in Rabbinic Literature," in Y. Tsafrir and S. Safrai, eds., *The History of Jerusalem: The Roman and Byzantine Periods (70–638 C.E.)* (Jerusalem: Yad Yitshak Ben-Tsevi, 1999) 35–59 (Heb.). A few scholarly collections in recent years were also devoted to exploring the various facets of Jerusalem in ancient Jewish civilization. See for example, M. Poorthuis and Ch. Safrai, eds., *The Centrality of Jerusalem: Historical Perspectives* (Kampen: Kok Pharos, 1996); L. I. Levine, ed., *Jerusalem: Its Sanctity and Centrality to Judaism, Christianity and Islam* (New York: Continuum, 1999).

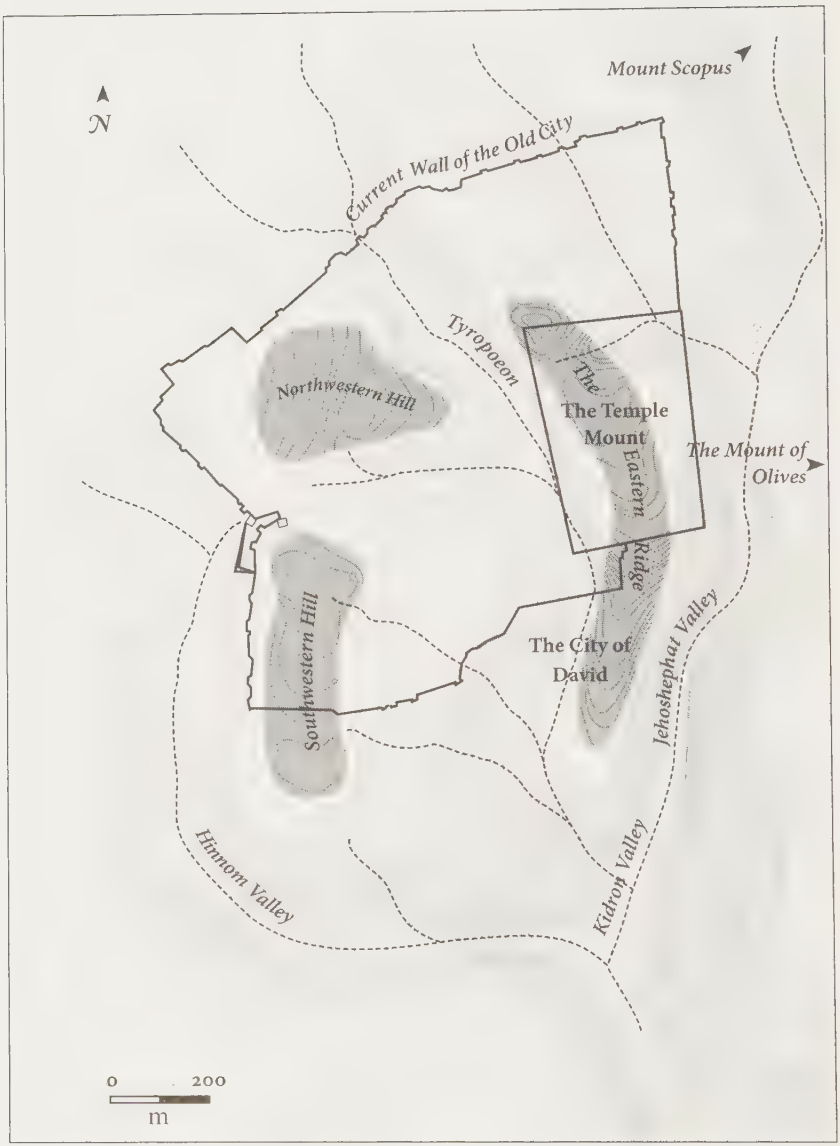

Figure 1, Jerusalem's Topography.

to contemplating the loss of Jerusalem and its Temple and consequently replete with motives that hinge on these two.

The rabbis produced innumerable passages relating to the reality, both physical and metaphysical, of Jerusalem, with the Temple at its core. The focus on these two entities is apparent throughout tannaitic and amoraic writings.

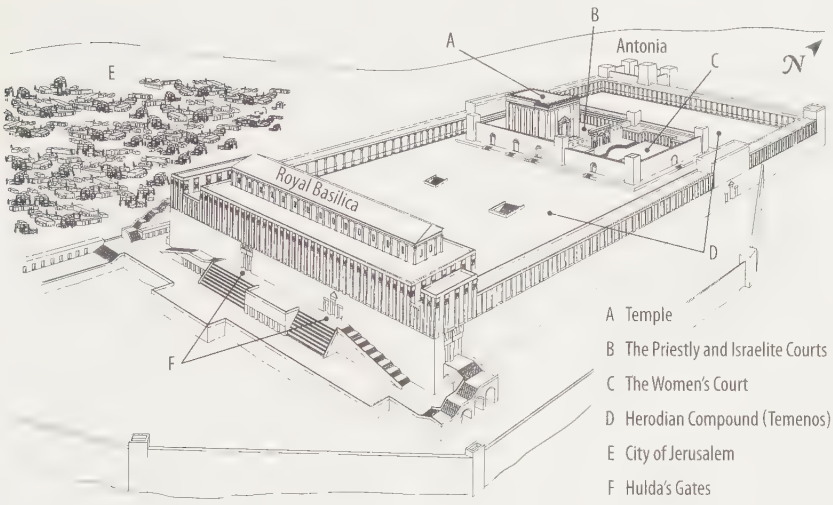

Figure 2, Second Temple Compound. Based on M. Ben-Dov, *The Dig at the Temple Mound*, Jerusalem 1981, with permission from author.

This is true in the halakhic (legal) sections – regulating the heave offerings and the tithes, or the celebrations of the various holidays, and even the tiniest details of the laws of ritual purity and impurity – all closely associated with the Temple. In the aggadic (nonlegal) portions as well, legends about the scholars and great men of Jerusalem, vignettes depicting life in the city and the Temple, and the vast numbers of interpretations of biblical verses dealing with these localities all attest to the importance of the Temple-city paradigm in collective rabbinic memory. Time and again the sages of the Mishnah and the Talmud reilluminate various aspects of Jerusalem and the Temple, thus fixing them within the deepest layers of their consciousness and setting them as the perpetual background, if not the actual scenery, of their multifaceted literary enterprise.

This intense preoccupation of the sages with Jerusalem and the Temple occurs at a time when these places were in ruins or when a foreign regime – pagan and then Christian – presided over the area. At first, in the period between the destruction of the Temple and Bar-Kokhba's revolt (70–135 C.E.), this paradox could be attributed to the genuine yearning to rebuild the city and its revered sanctuary and renew Temple worship – expectations that were a key factor in the atmosphere preceding the revolt of 132.[10] This explanation

10 For a comprehensive treatment of this aspect see I. Ben Shalom, "Events and Ideology of the Yavneh Period as Indirect Causes of the Bar-Kokhva Revolt," in A. Oppenheimer and U. Rappaport, eds., *The Bar-Kokhva Revolt: A New Approach* (Jerusalem: Yad Yitshak ben-Tsevi, 1984) 1–12 (Heb.).

cannot, however, account for the persistence of such attraction in subsequent years, when most, if not all, of the Jews in Palestine were remote from Jerusalem, many relocating to Galilee, and the palpable desire to renew the Temple cult gradually faded away.

It seems, therefore, that although the destruction of the Second Temple and its continued absence shook Judaism and its institutions, displacing some of its prominent spiritual and practical characteristics, this event did not by any means eliminate the Temple from Jewish experience.[11] Even when the hallowed sanctuary in Jerusalem no longer existed, and the physical basis for the way of life that centered around it had been eradicated, the Temple, its practices, and symbolism remained vital: they fostered a wide range of rituals and liturgies, shaped prayers, and nurtured a long list of behaviors and activities that were established as "commemoration of Jerusalem/Temple."[12] Artistic decorations of ancient synagogues feature close links with both Temple images and its paraphernalia.[13] Likewise, the writings of the sages perpetuate the city and its shrine in rulings commemorating practices from the days of its glory and in stories and traditions expressing nostalgia to the people and places of Jerusalem. All these demonstrate that Jerusalem and the Temple remained part of these people's discourse even after they had disappeared in reality.

This does not mean, however, that the City-Temple image in this period was completely disembodied or that, for example, Jews were totally disengaged from the mundane features of its landscape. Many scholars in previous generations were of the opinion, maintained by some to this very day, that in the centuries following the Bar Kokhba revolt, an all-inclusive imperial ban forbade Jews from dwelling in the city and that, with short and limited excep-

11 The intricate ways the destruction of the Temple affected Judaism and its institutions are too vast to discuss here. See, for example, S. J. D. Cohen, "The Destruction: from Scripture to Midrash," *Prooftexts* 2 (1982) 18–39; Cohen, "The Temple and the Synagogue," in T. G. Madsen, ed., *The Temple in Antiquity: Ancient Records and Modern Perspectives*, Religious Studies Monograph Series 9 (Provo, Utah: Brigham Young Univ., 1984) 151–74; B. M. Bokser, "Rabbinic Responses to Catastrophe: From Continuity to Discontinuity," *PAAJR* 50 (1983) 37–61; A. Aderet, *From Destruction to Restoration: The Mode of Yavneh in (the) Re-Establishment of the Jewish People* (Jerusalem: Magnes Press, 1990) 2–5 (Heb.).

12 See, for example, *t.Soṭah* 15:12–14 (Lieberman, 243–44), and other sources listed in S. Lieberman, *Tosefta Kifshutah: A Comprehensive Commentary on the Tosefta* (10 vols.; Jerusalem and New York: Bet ha-midrash le-rabanim shebe-Amerikah, 1955–1988) 8:774. The ramified connections between the synagogue and its prayers, on the one hand, and the Temple and its sacrifices, on the other, are discussed in many studies as well. See, for example, Cohen, "The Temple"; and more recently, S. Fine, *This Holy Place: On the Sanctity of the Synagogue during the Greco-Roman Period* (Notre Dame, Ind.: Univ. of Notre Dame Press, 1997); S. F. Reif, "Jerusalem in Jewish Liturgy," in Levine, *Jerusalem*, 424–37.

13 Fine, *This Holy Place*, 95–126.

tions, they were not even allowed to visit. Oded Irshay rightly rejected this view, showing at length that such a sweeping prohibition never really existed.[14]

One custom the Jews continuously maintained, although naturally on a diminished scale, was pilgrimage.[15] At least one Hebrew speaker, most probably a Jew, engraved the words of Isaiah 66:14, "And you shall see and your heart shall rejoice and your bones like the grass shall . . . ," on one of the stones of the western wall of the Temple Mount.[16] Other Jewish visitors bought numerous glass-vessel souvenirs decorated with a *menorah*, a seven-branched lampstand known to be a Jewish symbol *par excellence*, which archaeologists unearthed in Jerusalem and dated to the centuries prior to the Arab conquest.[17] The same exclusively Jewish symbol also appears on lintels of houses from the same period that were excavated near the southwestern corner of the Temple Mount, and in some cases it even replaces erased crosses.[18]

Complementing the physical evidence are sporadic literary reports about Jewish life in the city. One such piece of information is the famous account by an anonymous early fourth-century traveler from Bordeaux describing a ceremony in the area of the ruined Temple during which Jews anointed a "perforated stone" (*lapis pertusus*) with oil.[19] The same author speaks of "seven synagogues" on Mount Zion (the southwestern hill), one of which was still

14 O. Irshai, "Constantine and the Jews: The Prohibition against Entering Jerusalem – History and Historiography," *Zion* 60 (1995) 129–78 (Heb.). *Pace* for example, G. Stemberger, *Jews and Christians in the Holy Land: Palestine in the Fourth Century,* trans. R. Tuschling (Edinburgh: T&T Clark, 2000) 40–43; O. Limor, "Christian Sacred Space and the Jew," in J. Cohen, ed., *From Witness to Witchcraft: Jews and Judaism in Medieval Christian Thought,* Wolfenbütteler Mittelalter-Studien 11 (Wiesbaden: Harrassowitz, 1996) 60–62.

15 Many of the sources were collected and discussed by S. Safrai, "Pilgrimage to Jerusalem after the Destruction of the Second Temple," in A. Oppenheimer, et al., eds., *Jerusalem in the Second Temple Period: Abraham Schalit Memorial Volume* (Jerusalem: Yad Yitshak ben-Tsevi, 1980) 376–93 (Heb.); R. L. Wilken, *The Land Called Holy: Palestine in Christian History and Thought* (New Haven: Yale Univ. Press, 1992) 105–8.

16 B. Mazar, *The Excavations in the Old City of Jerusalem near the Temple Mount: Preliminary Report of the Second and Third Seasons 1969–1970* (Jerusalem: Institute of Archaeology, Hebrew Univ., 1971) 23.

17 D. Barag, "Glass Pilgrim Vessels from Jerusalem," *Journal of Glass Studies* 12 (1970) 35–63; 13 (1971) 45–63. On the menorah as a Jewish symbol in this period, see L. I. Levine, "The History and Significance of the Menorah in Antiquity," in L. I. Levine and Z. Weiss, eds., *From Dura to Sepphoris: Studies in Jewish Art and Society in Late Antiquity,* JRASup 40 (Portsmouth, R.I.: Journal of Roman Archaeology, 2000) 131–53; R. Hachlili, *The Menorah, The Ancient Seven-Armed Candelabrum: Origin, Form and Significance,* JSJSup 68 (Leiden: Brill, 2001).

18 B. Mazar, *The Mountain of the Lord* (Garden City, N.Y.: Doubleday, 1975) 257; M. Ben-Dov, *In the Shadow of the Temple: The Discovery of Ancient Jerusalem* (Jerusalem: Keter Publishing House, 1985) 218–19.

19 *Itinerarium Burdigalense* 591:4–6 (Geyer and Cuntz, 16). For a more detailed consideration of the act described here, see below pp. 56.

accessible in his day.[20] Based on the information discussed here pertaining to the Jewish presence in the city, the "Jewish-Christian" label ascribed to those structures by the so-called Testa-Bagatti school seems rather misleading.[21] In subsequent generations, Jerome too refers to Jewish visitors in Jerusalem.[22] Similarly, the biography of Barsauma, a zealous Nestorian monk who came to the city in the middle of the fifth century, reports a large gathering of Jews on the platform of the ruined Temple, which was authorized by the empress Eudokia, at the holiday of Tabernacles.[23]

Such evidence provides a concrete backdrop for the famous rabbinic legend about the *tannaim* who "arrived at the Temple Mount and saw a fox coming out of the (ruins of the) Holy of Holies,"[24] as well as for a similar, but less familiar, statement by a fourth-century *amora* who "affirms" seeing some rabbis visit the Temple Mount, take off their sandals, and store them "under the *ʾagof* (i.e., in the doorway)."[25] This is not to claim, in the old-fashioned positivistic manner, that these particular anecdotes are based on real historical events but only that the authors were not compelled to invent the very possibility that they occurred. Jews were visiting Jerusalem throughout the Roman and Byzantine periods, and perhaps some even resided in the city.

The available sources do not fully illuminate this phenomenon, and much remains unknown. It is difficult to determine the extent or frequency of such visits, and details about their substance, such as the length of stay in Jerusalem or the places where the visitors lodged, are rather scarce. The few sources that hint at the number of people who participated in these events, such as the traveler from Bordeaux and Jerome, make it clear that they were not isolated individuals but relatively sizeable groups. Barsauma's gathering is huge, although his descriptions may be somewhat exaggerated. It can therefore be concluded that the arrival of Jews in Jerusalem during the Roman-Byzantine period is well documented and not a one-time event. Whether there were hundreds or even thousands (as the biography of Barsauma states) of visitors on each occasion, however, or only a few dozen; whether Jewish residents were present in the city at all times, or whether they assembled there only on certain occasions, such as the Ninth of Av or the pilgrimage festivals – these questions, as well as others, do not have definite answers at present.

20 *Itinerarium Burdigalense* 592:6–7 (Geyer and Cuntz, 16).

21 For a thorough discussion of these interpretations, see J. E. Taylor, *Christians and the Holy Places: The Myth of Jewish-Christian Origins* (Oxford: Clarendon Press, 1993) 207–20.

22 Jerome, *Commentariorum in Sophoniam* 1:15–16 (Adriaen, 673).

23 F. Nau, "Résumé de monographies syriaques: Histoire de Barsauma de Nisibe," *ROC* 19 (1914) 120.

24 *Sipre Deut.* 43 (Finkelstein, 95).

25 *Y.Pesaḥ.* 7:11 (35b). On the *ʾagof* see M. Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi and the Midrashic Literature* (2 vols. repr.; New York: Pardes Publishing House, 1950) 1:13; J. Levy, *Wörterbuch über die Talmudim und Midraschim* (Berlin and Wien: B. Harz, 1924) 23.

Even if various rabbinic scholars were at least somewhat familiar with Jerusalem and the area of the ruined Temple, they were not simply bystanders reporting what they observed. As is well known, rabbinic literature seamlessly amalgamates fiction and reality with perception, ideology, and hermeneutics, and those are just as central in their writings as actuality itself.

In accordance with the richness and diversity of the sources, modern scholars have devoted considerable effort to decoding the multifaceted function of Jerusalem and its Temple as reflected in the works of the rabbis. The inviolability of the city and the sanctuary, both in terms of the *halakhot* intended to preserve it and the ideas and concepts associated with it, have all been repeatedly surveyed.[26] Other studies have examined developments in the rabbinic stance toward Jerusalem, the Temple, and a whole line of closely related categories (such as the priesthood and the sacrifices) against the background of the great historical changes that befell their society following the destruction of the Second Temple and the Bar-Kokhba catastrophe, and, even later, as a result of Christianity's rise to power.[27]

But what about the Temple Mount? Here the picture is surprisingly different. The number of scholarly studies seems to be in inverse ratio to the frequent occurrences of this designation in rabbinic literature. The sages, as we shall see, adverted to the Temple Mount dozens of times in their work and in miscellaneous contexts. Yet, even though modern scholars have made occasional references to one or another of these sources (and some of these remarks are quite important), the phrase "Temple Mount" has not received the same attention as its fellow terms – "Jerusalem" and "the Temple." To the best of my knowledge, there is still no comprehensive collection of rabbinic references to the Temple Mount that tries to assess the significance of this entity for those who used it. One exception is the repeated attempt to delineate the geographical boundaries of the mountain, especially by utilizing the tannaitic *halakhah* that defines it as a square each of whose sides is 500 cubits long (discussed in detail below, pp. 37–40).[28] It is such deficiencies that the present study aspires to rectify.

My concern here is not the physical realm but rather the sphere of

26 See Gafni, "Jerusalem"; A. Guttmann, "Jerusalem in Tannaitic Law," *HUCA* 40–41 (1969–70) 251–75; D. Golinkin, "Jerusalem in Jewish Law and Customs," in Levine, *Jerusalem*, 408–23.

27 For a sample of the disparate opinions that have been expressed on this issue in recent years, see Cohen, "The Temple"; Z. and Ch. Safrai, "The Sanctity of Eretz Israel and Jerusalem," in I. Gafni, et al., eds., *Jews and Judaism in the Second Temple, Mishnah and Talmud Period: Studies in Honor of Shmuel Safrai* (Jerusalem: Yad Yitshak ben-Tsevi, 1993) 344–71 (Heb.); D. Henshke, "The Sanctity of Jerusalem: The Sages and Sectarian Halakhah," *Tarbiz* 67 (1997) 5–28 (Heb.); C. Hezser, "The (In)Significance of Jerusalem in the Talmud Yerushalmi," in P. Schäfer and C. Hezser, eds., *The Talmud Yerushalmi and Graeco-Roman Culture*, Texte und Studien zum Antiken Judentum 79 (3 vols.; Tübingen: Mohr Siebeck, 2000) 2:11–49.

28 References are provided below, n. 91, in my discussion of this Mishnah.

consciousness, images, and ideas. From a physical standpoint, it is obvious that the summit on which the Temple used to stand was still there in the days of the rabbis, on the ridge that divided the two eastern tributaries of the Kidron Valley – the Jehoshaphat Valley to the east and what is known as the Tyropoeon Valley to the west (see fig. 1). But how was this mountain crest perceived by the sages, and what role did it play in their lives? As we shall see below, the answers to these questions are far from being simple. Following the rabbinic (literary) engagement with the Temple Mount will unveil an absorbing process in which sacred space is re-organized, and both physical and spiritual landscapes are re-defined through memory and literature.

Consciousness and Historical Context

Portrayals of the Temple Mount in tannaitic literature create the impression that they derive from the milieu of Second Temple Judaism. Tractate *Middot*, for example, refers to the Mount as an established territorial entity within the larger Temple landscape: it clearly surrounds the central edifice (i.e., the Temple itself), its dimensions are meticulously demarcated ("The Temple Mount is 500 cubits by 500 cubits"), the names of its gates are well known ("The Temple Mount had five gates . . ."), some etiquette for visitors is also mentioned, such as the walking route at the site, along with the salutation for greeting people along the way. Also mentioned is "the officer of the Temple Mount (*ʾish har habayit*)," who is responsible for security and order at the site and whose duties include overseeing the Levite guards who were stationed at the five gates.[29]

The content of these passages implies that their authors wished to represent them as founded on Second Temple reality. Only such a reading explains the presence of pickets at the gates of the mountain simultaneously with the priests who guarded the Temple itself. The same holds true for the reply that the Mishnah prescribed for someone who encountered a mourner or an excommunicated individual while strolling the area – "May He who dwells *in this house* comfort you," or "May He who dwells *in this house* put it into their hearts to draw you back" – which take for granted that "this house" in fact exists.

Other rabbinic sources support the notion of the Temple Mount as an integral element of Second Temple topography by documenting ceremonies and feasts that allegedly took place in Jerusalem at that time. The mention of the

29 *M.Mid.* 1:1–3; 2:1–2. The version of the Mishnah used throughout this study is checked against that of the MS. Kaufman A50 in the Hungarian Academy of Sciences, facsimile edition, Jerusalem 1968. I do not generally use alternative readings unless they are important for the matter at hand. The translations into English are based on H. Danby, *The Mishnah* (Oxford: Oxford Univ. Press, 1933), but frequently I take the liberty of changing them where I feel they do not represent the original Hebrew precisely.

Temple Mount as a reference point in such procedures takes for granted its familiarity to the rabbinic audience. One example places the Temple Mount as the final station along the route of the oxen that brought the ritually pure children who carried the water from the Siloam fountain for the ceremony of slaughtering the red heifer; it was also the point of departure for the entourage that dealt with the heifer, which set out from the city for the nearby Olive Mount.[30]

Another example features the vibrant description of the sacramental banquet celebrating the bringing of first fruits. The rabbinic text follows the pilgrims' route and enumerates various details of the festivity: the ox "whose horns were overlaid with gold and a wreath of olive-branches on its head" leading the procession, the flute "playing in front of them," the biblical verses that were recited, and the various personae who were involved in the ceremonies. One of the parade stations, after the pilgrims had already entered Jerusalem but before they arrived at the inner court of the Temple (the *ʿazarah*), was the Temple Mount: "The flute plays in front of them until they arrive at the Temple Mount. When they reached the Temple Mount even King Agrippa would take a basket on his shoulder and enter."[31]

Another *halakhah* from a different occasion that fits this pattern well prescribes that after the first group completed their Paschal offering (which, due to the vast number of participants, was carried out according to the Mishnah in three consecutive shifts), "they went out . . . to the Temple Mount."[32] In the same vein, a position attributed to the *tanna* R. Eliezer b. Yaakov locates on the Temple Mount the biblical reading, which according to the Mishnah is required from a Jewish king at the public convocation (*hakhel*) on the holiday of Tabernacles following the Sabbatical year.[33] Other *halakhot* also place the Temple Mount at the hub of daily life in Jerusalem at the time when the Temple still stood. The decree concerning lost money found in the city expresses such tendencies. The Mishnah rules on this issue: "Coins that were found before cattle-dealers are always [considered to be second] tithe [coins]. [If they were found] in the Temple Mount [they are considered] profane (regular coins that were not sanctified for second tithe use). And in Jerusalem – [if found] during the rest of the year [they are considered] profane, and [if found] on a pilgrimage festival all [are considered second] tithe [coins]."[34]

In addition to these *halakhot*, tannaitic literature records a considerable number of customs and policies pertaining to the Temple Mount during the Second Temple period. Hand in hand with the instructions in Tractate *Middot*

30 *M.Parah* 3:3, 6; *t.Parah* 3:2–7 (Zuckermandel, 631–32).

31 *M.Bik.* 3:4; *t.Bik.* 2:10 (Lieberman, 292).

32 *M.Pesaḥ.* 5:10.

33 *T.Soṭah* 7:13 (Lieberman, 195), also cited in *b.Yoma* 69a.

34 *M.Šeqal.* 7:2.

mentioned above, a tannaitic *halakhah* regulates the dress code on the mountain, forbidding certain objects (such as shoes and walking sticks) to be brought in, and imposing a number of other restrictions on those who enter (dust on one's feet is not allowed nor using the Temple Mount as a shortcut).[35] Many other references associate the Temple Mount with the three pilgrimage festivals. It is said of the golden trays covering the porch (*ʾulam*) of the Temple, for example, that "on the pilgrimage festival they are folded and placed on the steps of the Temple Mount so that the people will see their workmanship that it is beautiful. . . ."[36] Another example explains that when the first day of Tabernacles falls on the Sabbath people would "bring their *lulavim* (palm branches) to the Temple Mount and the *ḥazzanim* (officials/supervisors) would take them from them and arrange them on the roof of the *ʾistevah* (portico/*stoa*)."[37] Also mentioned are special additions to prayer on public fast days, which the sages claim derive from what was customary on the Temple Mount,[38] and various environmental enactments, such as the prohibition against planting trees on the Temple Mount[39] or the decree that "stones and beams that one originally quarried [and hewed] for a synagogue should not be used for building on the Temple Mount."[40]

The Temple Mount frequently appears in stories about Second Temple Jerusalem that are introduced into tannaitic literature. The Tosefta, for example, tells "of R. Gamaliel and the elders who were sitting on the top of the stairs in the Temple Mount," from which they dispatched epistles to all the "nation of Israel" about the removing of tithes from their houses and the intercalation of an additional month into the yearly system.[41] To be sure, the source does not specify which R. Gamaliel this was, so it might have been R. Gamaliel of Yavneh, in which case the story would be about the time after the destruction of the Temple. But since it is unlikely that the sages who configured this tradition thought Jews still occupied official positions in Jerusalem at that time, we can assume that the R. Gamaliel mentioned here was the so-called R. Gamaliel the Elder and that the account, therefore, whether authentic, fictional, or just through confusion on the part of its transmitters, was attributed by its authors to the Second Temple period.[42]

35 This *halakhah* is fully discussed below, pp. 26–31.

36 *T.Menaḥ.* 13:19 (Zuckermandel, 533). See also *b.Pesaḥ.* 57a.

37 *M.Sukkah* 4:4.

38 *M.Taʿan.* 2:5. I discuss the parallels to this Mishnah below, pp. 23–24.

39 *Sipre Deut.* 145 (Finkelstein, 200). More on this *halakhah* below, pp. 57–58.

40 *T.Meg.* 2:16 (Lieberman, 352).

41 *T.Sanh.* 2:6 (Zuckermandel, 416); *y.Maʿas. Š.* 5:6 (53c); *y.Sanh.* 1:2 (18d); *b.Sanh.* 11b.

42 As concluded by many; see, for example, M. D. Herr, "The Calendar," in S. Safrai, et al., eds., *The Jewish People in the First Century,* CRINT 1.2 (Philadelphia: Van Gorcum, 1976) 856–57; D. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity,* TSAJ 38 (Tübin-

Another anecdote with similar elements more clearly refers to the time when the Temple was still standing. In that case, R. Yose recalls his father, Ḥalafta, informing R. Gamaliel of Yavneh about an edict issued by the latter's grandfather, R. Gamaliel the Elder, to put away a certain translation of the book of Job and doing so while sitting (or standing, according to a second version) "on top of a step in the Temple Mount."[43] In other instances the *tannaim* extend the chronological boundaries even further, depicting the Temple Mount as part of Jerusalem's reality in much earlier periods. Illustrating this tendency is the mishnaic tale about Ḥoni the circle drawer, a saintly figure active in Jerusalem toward the end of the Hasmonaean period (60s B.C.E.), which at one point refers to heavy showers persisting "until the Israelites went up from Jerusalem to the Temple Mount."[44]

The conjunction of the Temple Mount with the Second Temple era extends beyond *halakhah* and "historiography." A string of rabbinic sources also interweaves this feature into the physical landscape of the pre-destruction period by juxtaposing it with other architectural elements that existed at the time. Scholars justifiably interpreted the tannaitic reference to the *stoa* on the Temple Mount (cited above, pp. 12) as deriving from the Greek and denoting either the royal basilica erected by Herod on the southern portion of the compound or the porticoes that encircled the compound.[45]

A *baraita* (an "external Mishnah," i.e., a tannaitic pericope not included in the final edition of the Mishnah) in both the Babylonian and the Palestinian Talmuds portrays a similar layout outlining the Temple Mount as a "colonnade within a colonnade."[46] Also mentioned in rabbinic literature are a synagogue, a study-house, and a law court on the Temple Mount, although it is not clear whether the references are to architectural structures or, at least in the case

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gen: Mohr Siebeck, 1994) 211–12. But see J. Neusner, *The Rabbinic Traditions about the Pharisees before 70* (3 vols.; Leiden: Brill, 1971) 1:356–58.

43 *T.Šabb.* 13:2 (Lieberman, 57). Other versions of this tradition are listed by Lieberman. It is the London ms. that has R. Gamaliel "standing," and in *y.Šabb.* 16:1 (15c) the location is said to be "the building on the Temple Mount" instead of the step, presumably to allow "a tier of bricks" for the stashing of the translation.

44 *M.Taʿan.* 3:8. Some of the textual witnesses, including the printed editions, have "went out" instead of "went up." In the Tosefta version of the story, the Temple Mount does not appear at all; see *t.Taʿan.* 2:13 (Lieberman, 334–35). For a discussion of the various versions, see Lieberman, *Tosefta Kifshutah* 5:1096–97.

45 See, for example, A. Kohut, "אסטוה," *Aruch Completum* (8 vols.; Vienna, 1878) 1:166–67; S. Krauss, *Griechische und lateinische Lehnwörter im Talmud, Midrasch und Targum* (2 vols.; Berlin: S. Calvary, 1898–99; repr., Hildesheim: Gg. Olms, 1964) 2:117–18.

46 *Y.Taʿan.* 3:11 (66d). The Bavli renders an elaborated version of this tradition and adds at the beginning, "The Temple Mount was a double colonnade"; see *b.Ber.* 33b. See also *b.Pesaḥ.* 13b, 52b; *b.Sukkah* 45a.

of the last two, merely to the gatherings of people for such purposes.[47] Other tangible elements, diminutive as they might seem, emerge throughout rabbinic texts, such as the step and tier used by R. Gamaliel for burying the copies of the translation of Job that he withdrew from circulation (see n. 43 above) or the tops of pillars in the Temple Mount, of which R. Eleazar b. Zadok said "that artisans sit on them and polish the stones."[48]

Culminating the tannaitic presentation of the Temple Mount as a Second Temple element is the famous Mishnah in Tractate *Kelim* that maps the hierarchy of spatial holiness by dividing it into ten consecutive degrees. Within that arrangement, between the city of Jerusalem ("within the city walls") and the Temple structure itself stands the Temple Mount, which "is still more holy (than the city), for no man nor woman who has the flux, no menstruant, and no women after child birth may enter therein."[49]

Apparently, the sages considered the Temple Mount an integral part of Second Temple reality, and as such they were required to rank it among the holy features of that time. At the core of the degrees of holiness passage shines the Temple of Jerusalem, the focus and peak of holiness, as an accessible and functioning institution. Accentuating its elevated status in this literary piece, the house of God is encircled by other architectural elements of this time – the inner courtyards, Temple Mount, and the city of Jerusalem. Characteristically for the rabbis, they do not convey this concept in spiritual terminology but rather anchor it in mundane daily practices and engrave it in halakhic prohibitions involving the widely observed laws of ritual purity. By applying such language, the passage creates the impression that the various components on its list, including the Temple Mount, were fundamental to the awareness of Jews during the Second Temple period.

Amoraic literature proceeds along the same lines. The *amoraim* too considered the Temple Mount to have been an established entity as well as a functioning site during the Second Temple period, constituting an essential part of Jewish experience at that time. They show concrete knowledge of the physical layout of the place – for example, when referring to "the *ʾazarot* (the doorway)

47 Synagogue and academy house: *t.Sukkah* 4:5 (Lieberman, 273). Parallels and a discussion of variants are found in Lieberman, *Tosefta Kifshutah*, 4:888. Academy house and law court: *t.Šeqal.* 3:27 (Lieberman, 219); *t.Ḥag.* 2:9 (Lieberman, 383); *t.Sanh.* 7:1 (Zuckermandel, 425). For a full discussion of these sources with reference to their parallels in the New Testament, which reaches rather different conclusions about the actual situation, see S. Krauss, *Synagogale Altertümer* (Berlin: Harz, 1922) 66–72; L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven: Yale Univ. Press, 2000) 52–58.

48 *T.Kelim B. Bat.* 2:2 (Zuckermandel, 591).

49 *M.Kelim* 1:8, and also *Sipre Zut. Naso* 5:2 (Horovitz, 228); *t.Kelim B. Qam.* 1:6–7 (Zuckermandel, 569–70). I discuss this Mishnah and its parallels extensively below, p. 37–39.

of the Temple Mount" in relation to the sanctuary's halakhic boundaries.[50] The amoraic debate regarding a paschal sacrifice that had become ritually impure also evokes the scenery at the site. The Mishnah stipulates that it must be burnt "in front of the *birah* (castle/fort)." The *amoraim* in the Palestinian Talmud differ about the identification of this structure; R. Yoḥanan claims, "There was a tower on the Temple Mount that was called *birah*," while R. Simeon b. Lakish contends, "the entire Temple Mount was called *birah*."[51]

Like the *tannaim*, the *amoraim* preserved "memories" – whether real or imagined – of scenes from the Second Temple period that had occurred on the Temple Mount. One example in the Palestinian Talmud features Bava b. Buta, a disciple of Shammai, who in his aspiration to follow the *halakhah* of the rival school of Hillel, mustered three thousand animals intended for ritual offering, stood them on the Temple Mount, and called upon the Jews to sacrifice them in consistence with the ruling of the school of Hillel.[52]

The *amoraim* also associated the Temple Mount with some official practices from the days of the Temple. Illustrating this trend a post amoraic compilation known as *Midrash Tanḥuma* details a custom forbidding a priest to leave the Temple Mount while dressed in his vestments.[53] Furthermore, the *amoraim* resembled the *tannaim* in considering the Temple Mount to have been in service even during the earliest part of the Second Temple period and describing events of that time as having taken place there. For example, one version of the amoraic legend about Alexander the Great's alleged arrival in Jerusalem maintains that when Alexander entered the Temple Mount, the Jewish protagonist of the story – a character named Gabiah (the Hunchback) – coaxed him to replace his shoes with some socklike slippers (from the Greek *empilia*).[54] It is fairly clear that the author shaped this segment in accordance with the tannaitic *halakhah* mentioned above (p. 12), which prohibits walking in the Temple Mount with shoes on.

50 *Y.Pesaḥ.* 7:11 (35b).

51 *Y.Pesaḥ.* 7:8 (35a). For further discussion of this *halakhah* and its parallels, as well as the meaning of the word "*birah*," see below, pp. 25–26.

52 *Y.Beṣah* 2:4 (61c); *y.Ḥag.* 2:3 (78a), and more about this source below, pp. 24.

53 *Tanḥ. B. Ḥukat* 40 (Buber, 124). Similarly in the printed edition of the *Tanḥuma* (Ḥukat 17), and *Num. Rab.* 19:19, which is known to be nearly identical to the *Tanḥuma* for these biblical portions. For early versions of this *halakhah* see my discussion below, p. 57.

54 *Gen. Rab.* 61:7 (Theodor and Albeck, 668). For another version of this legend in the Scholion to the Scroll of Fasting (*Megillat Taʿanit*) and other parallel texts in amoraic literature see V. Noam, *Megilat Taʿanit and the Scholion: Versions, Interpretations, History with a Critical Edition* (Jerusalem: Yad Yitshak Ben Tsevi, 2003) 75–77. The designation "Temple Mount" only appears in what Noam calls the "patchwork version" of the Scholion and is thus influenced by *Gen. Rab.* Concerning the *empilia*, see: Krauss, *Griechische*, 61–62.

At first glance, then, rabbinic sages in the post-70 era present a picture of the Temple Mount as an essential part of the preceding Second Temple Jewish experience and an inseparable part of reality in that earlier generation's consciousness. This literature suggests that during the time of the Temple Jews were both familiar with and used the term "Temple Mount." They abided by customs linked to the Mount as well as the laws governing the area. People were also acquainted with its physical details.

But a more careful examination of the traditions regarding the Temple Mount in rabbinic literature – one that investigates the various versions of and changes in the texts over time – reveals deep fissures in the picture delineated above. Such an investigation raises serious doubts about the historical reliability of relating the term "Temple Mount" and its conceptual content to the Second Temple period. Its conclusions reverse the above model of the Temple Mount as a Second Temple feature, and present it as a conceptual innovation of the rabbis.

David Weiss-Halivni was, as far as I know, the first to point out the problems involved in the sources about the Temple Mount and to note that this term does not fit smoothly with the halakhic fabric depicted by the Mishnah.[55] Halivni directs his attention to Mishnah *Bikkurim*, which presents the extent of first fruits liability beyond which the legal responsibility of the person bringing the offering does not extend. It reads as follows:

> If they (the first fruits) contracted uncleanness while in the Temple Court (*ʿazarah*), he must scatter them and he may not make the Avowel. Whence do we learn that a man is liable for them until they are brought to the Temple Mount? Because it is written "The first of the first fruits of thy land thou shalt bring into the house of the Lord thy God" (Exodus 23:19, 34:26), which teaches that one is liable for them until they are brought to the Temple Mount.[56]

Halivni is very much aware that the two designations in this passage – Temple court (*ʿazarah*) and Temple Mount (*har ha-bayit*) – signify different parts of the Temple complex; the first points to the inner court (fig. 2:B–C), and the latter to the outside precinct (fig. 2:D). He therefore notes that the change in name – from "Temple court" at the beginning of the *halakhah* to "Temple Mount," appearing twice in the exegetical (midrashic) segment following it – creates legal incongruity. The first part of the *halakhah* specifies that only if the pil-

55 See D. Weiss-Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, Mass.: Harvard Univ. Press, 1986) 22–25.

56 *M.Bik.* 1:8–9; trans. (with minor changes) Danby, *The Mishnah*, 94.

grim brought the first fruits to the Temple court is he no longer responsible for them. And so, if at that time they contracted ritual impurity, "he scatters them" but is not required to bring "others instead of them (as demanded from someone whose fruits became invalid prior to his fulfillment of the obligation)." The closing, midrashic, part, however, implies that as soon as the pilgrim has brought the offering to the Temple Mount, his obligation is fulfilled. Thus a person who has brought the offering to the Temple Mount maintains his liability according to the first part of the *halakhah* but is no longer responsible according to the last part. Halivni correctly notes that this last section contradicts not only the first section but also the accepted *halakhah* in rabbinic literature elsewhere. He calls attention to a midrashic segment in the *Mekhilta of R. Simeon b. Yoḥai*, which is practically identical to the one in the above Mishnah, except that it ends, "'thou shalt bring into the house of the Lord thy God' teaches that people are bound to look after the bringing of (the first fruits) until they reach the chosen house (*beit ha-beḥirah*; the Temple)."[57] In order to resolve the contradiction Halivni proposes the following:

> Clearly, during the time when the continuation of the Mishnah *Bikkurim* (i.e., the midrashic segment in the second part, *YZE*) was composed, the Temple proper too was referred to (as in the Bible) as the Temple Mount.

Halivni claims that this time was the period before the reign of Herod.[58] Underlying his interpretation is the assumption that the meaning of the term "Temple Mount" has changed over time. With this insight, Halivni provides the methodological foundation for a historical study of the expression "the Temple Mount" and its development in both rabbinic literature and Jewish civilization in general. His chronological model, however, may not be the only solution. Halivni mentions another source (discussed below) from Mishnah *Ḥagigah* that reflects the same development in the meaning of the term, but

57 *Mek. R. Šim.* 23:19 (Epstein and Melamed, 219). See Halivni, *Midrash*, 23. Actually, the classical commentators on the Mishnah had already noticed the internal contradiction in this *halakhah*. Halivni himself refers the reader to the famous eighteenth-century rabbinic scholar Rabbi Eliyahu of Vilna, the so-called Vilna Gaon, and even before Halivni, Lieberman reviewed other commentators who discussed this issue; see Lieberman, *Tosefta Kifshutah*, 2:828. As they generally do in such cases, traditional scholars take a harmonistic approach toward the sources. Thus, for example, the Vilna Gaon expunged the word "Mount" from the last part of the *halakhah* in Mishnah *Bikkurim*, suggesting that the proper wording is, "and how do we know that he is liable for them until he brings them to the house (Temple)," thus resolving the contradiction. Clearly, however, this correction has no support from any of the known textual witnesses, all of which read "the Temple Mount," and thus misses the historical aspect of halakhic development.

58 Halivni, *Midrash*, 23.

an examination of all the occurrences of the appellation "Temple Mount" in rabbinic literature shows this trend to be quite far-reaching. Halivni's model does not account for this widespread phenomenon.

A priori, there could be two possible, chronologically different, origins for the Temple Mount image in rabbinic literature. According to one option, the sages really did capture the essence and experience of the previous era – that is, the Second Temple period – and they preserved and documented it in their literature. According to this line of thought, the writings of the *tannaim* and *amoraim* genuinely display the Temple Mount as part of the Second Temple world. Consequently, Halivni proposes that the authors of the Mishnah retrieved the source about the Temple Mount from early layers of Second Temple literature, namely pre-Herodian times.[59]

An alternative possibility, however, should also be considered. Perhaps the sages offer a new picture of the past based primarily on the concepts and images that were prevalent in their own time. If this is so, when the rabbis present the Temple Mount as an essential component of Second Temple experience, they are actually projecting their own images backward and sketching the past according to accepted notions of their own time. This view accepts Halivni's distinction between the various layers of the tannaitic literature dealing with the Temple Mount but differs with his historical conclusion. According to this line of thought, "the Temple Mount" in rabbinic literature is not an early conceptual entity that the rabbis incorporated into their writings but rather a later invention that was plotted into these texts by those who created them, namely the rabbis themselves.

How then is Mishnah *Bikkurim* to be understood? The midrashic segment at the end of the passage, which fixes the limits of first fruits liability at the Temple Mount, has a parallel in two other tannaitic works – the Tosefta and the *Sifre* to Deuteronomy. These texts, however, cite R. Judah's view, which demarcates the line of liability at a place called "the well (cistern) of the *Golah*," known from other sources to be located in the Temple, between the Israelite and Priestly courts (fig. 2:B).[60] The *Sifre* discusses the liability limits of all offerings in general. It interprets the verse, "But such sacred donations that are due from you, and your votive gifts you shall bring to the place that the Lord will

59 Halivni's thesis is even more far reaching since he claims based on this analysis that the genre of *midrash* predates the mishnaic form. My discussion below adds to doubts that were posed in regard to this preposition. On the whole subject, see R. Kalmin, "Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law," *Conservative Judaism* 39.4 (1987) 78–84 (on Halivni's discussion of the Temple Mount, see p. 82).

60 *Sipre Deut.* 77 (Finkelstein, 142); *t.Bik.* 1:5 (Lieberman, 287). On the location of this cistern, see *m.ʿErub* 1:14; *m.Mid.* 5:4. For discussion of the sources and earlier bibliography, see J. Schwartz, "Be'er ha-Qar, Bôr Heqer and the Seleucid Akra," *Cathedra* 37 (1985) 14–16 (Heb.).

choose" (Deuteronomy 12:26), as, "One is bound to take care of the bringing (of the offerings) until they are brought to the Chosen House." Following this general statement the above mentioned R. Judah locates the line of liability more specifically.

Clearly the general boundary for liability set by the *Sifre*, as well as the more specific location noted by R. Judah, agrees with the first part of Mishnah *Bikkurim*. Both "*ʿazarah*," inner courtyard, and "*beit ha-beḥirah*," chosen house, even if not identical, point to the inner structures of the Temple, which stood at the time as a detached architectural unit, physically removed from the outer compound by a fortified wall (see fig. 2:A–B–C) and legally separated by a whole series of *halakhot*.[61] R. Judah's remark too, although a more focused clarification that marks the boundary for responsibility in exact terms, shares the view of the *Sifre* and the first part of Mishnah *Bikkurim*. All three disagree with the boundary designated by the midrashic segment in the *mishnah* – "Temple Mount" – which denotes the outer precinct (fig. 2:D) and therefore restricts the limit of liability less than all other passages.

The question is the relation between the three formulations that locate the boundary at the inner structure of the Temple on one hand and the midrashic segment at the end of the *mishnah*, which sets the boundary at the Temple Mount on the other. At first glance it might seem that the sources simply disagree about the liability boundary – one group locates it in the Temple, and another source at the Temple Mount. But, as Halivni showed, the wording of the Mishnah does not appear to indicate a difference of opinion between the first part and the second; rather, it seems to be presenting one view. Moreover, the use of a very precise designation, "the well of the *Golah*" (as opposed to naming a broader vicinity such as "the Temple" or "the Temple Mount") demonstrates familiarity with the layout of the Temple area, thus attesting to the probable early date of this version.

It may thus be suggested that the expression "the Temple Mount" represents a later reformulation of the *halakhot* about the boundary of liability, reflecting a

61 *ʿAzara* (which I have been translating as "inner Temple court"), at least in the Mishnah, always refers to the area west of the women's courtyard, whether it includes only the so-called court of the Israelites or also the priestly court. Some typical examples of this terminological phenomenon are discussed below (the public reading of the biblical section concerning the king, the slaughter of the Passover sacrifice in three groups, and others). The history of the expression *Beit ha-beḥirah* (the chosen house) was recently discussed by Henshke, "The Sanctity," 10–17 (Heb.), who showed that it originally did not mean "the Temple" but rather the area upon which the Temple was built. The following points are important for the present discussion: 1. Even Henshke admits that this term was later used only to refer to the Temple; 2. Even if the Mekhilta of R. Simeon b. Yoḥai reflects the early use of the term here, this may be the source of the *halakhah* that places the limit of liability at the Temple Mount, but it then just corroborates the fact that "the Temple Mount" is a later expression that replaced "the chosen house."

distant viewpoint from which this term came to encompass, and consequently replace, the particularities of the Temple reality. According to this interpretation, *ʿazarah*, inner courtyard, and the well of the *Golah* had been relevant when they were well known to everyone but lost their relevance once the Temple had been destroyed. The sage who coined this term in the midrashic segment of the *mishnah* adjusted his phrasing to the common vocabulary of his own day. From this point of view, he may not even have noticed the contradiction that this change created between the two parts of the Mishnah because in his time the term "Temple Mount" stood for a general, all-inclusive name for the Temple.

This is a theoretical model. Although it may be correct, alternative proposals can be offered as well. In what follows I therefore bring evidence in support of this thesis, demonstrating that the "Temple Mount" constitutes a later expression taken from the worldview of the *tannaim* and *amoraim*, which they used in reference to earlier times.

The Direction of Prayer

Numerous sources from the Second Temple period attest to an ancient custom of praying in the direction of Jerusalem and the Temple. The embryonic phases of this practice may already be spotted in the prayer attributed to King Solomon, said to be delivered at the dedication of the First Temple: "Hear the plea of your servant and of Your people Israel when they pray toward this place."[62] In accordance with this tradition, the early *halakhah*, preserved in *Sifre* to Deuteronomy and in the Tosefta, as well as in a series of amoraic parallels and some fragments in the Geniza, calibrate the various directions of prayer:

> Those who stand outside the Land direct their hearts toward the land of Israel . . . Those who stand inside the land of Israel direct their hearts toward Jerusalem . . . Those who stand in Jerusalem direct their hearts toward the Temple . . . Those who stand in the Temple direct their hearts toward the Holy of Holies.[63]

62 1 Kgs 8:30; Dan 6:11; 3 Ezra 4:58 (Rahlfs, 884). This is also how the prayer of Sarah facing the window is interpreted: Tob 3:11 (Hanhart, 83). See also E. E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. I. Abrahams (Jerusalem: Magnes Press, 1975) 54–63; U. Ehrlich, *The Non-Verbal Language of Jewish Prayer* (Jerusalem: Magnes Press, 1999) 64–96 (Heb.).

63 *T.Ber.* 3:15–16 (Lieberman, 15–16); *Sipre Deut.* 29 (Finkelstein, 47). Later versions and parallels from the Geniza are enumerated in Lieberman's edition. Concerning the major difference in wording between the Tosefta and the Sipre, where the former has "they direct their heart" throughout, while the latter (as well as the Mishnah cited in the following note) has "they turn their faces toward . . ." in some of the instances; see Lieberman, *Tosefta Kifshutah* 1:44; Ehrlich, *The Non-Verbal*, 64–96.

The Mishnah presents an abbreviated form, mentioning only the final destination but with a similar orientation: "He should direct his heart toward the Holy of Holies."[64] One source, however, deviates from this conventional pecking order and introduces a slight change into the hierarchy of places. A *baraita* cited by the Palestinian Talmud replaces "the Temple" with "the Temple Mount": "Those who pray in Jerusalem turn their faces toward the Temple Mount . . . Those who pray on the Temple Mount turn their faces toward the Holy of Holies."[65] Even those scholars who noticed this change paid no attention to its significance;[66] indeed, from a practical viewpoint it makes no difference since people in prayer continue to face the same direction. But from a conceptual point of view, the change in the designation of the location suggests an essential development.

All versions of the hierarchal list of places, including the *baraita* in the Palestinian Talmud, coincide stylistically. Even more so, they concur about the identity of the various places, with only one exception – the Temple Mount in the *baraita*. The proximity in both style and wording deems it unlikely that the two versions were formulated concurrently. It is also rather implausible that the early version read "the Temple Mount" and that it was later altered to "the Temple." More probably, most of the sources in this case preserved the ancient and obvious version in which the direction of prayer points toward the Temple, as is also evident in all early Second Temple sources (see n. 62). Only the tannaitic source preserved in the Palestinian Talmud alters the location to "the Temple Mount."

A clue to the reasons for this modification may be found in the portion of the Palestinian Talmud following the *baraita*. In that passage, R. Joshua b. Levi interprets the verse, "For my House shall be called a House of Prayer for all the nations" (Isa 56:7), as follows, "It is the inner sanctuary towards which all faces

64 *M.Ber.* 4:5

65 *Y.Ber.* 4 (8c). The fact that this source speaks about turning one's face, while the source cited above from the Tosefta is about the direction of one's heart, is not relevant for the present study. As mentioned above (n. 63), the parallels in the Tosefta already include turning one's face; the important point is that the hierarchy of places is the same in the two versions, except for the source in the Palestinian Talmud under discussion here. Another parallel version in *Cant. Rab.* 4:4 has preserved a mixed reading: "Those who stand in prayer in Jerusalem turn their faces toward the Temple . . . Those who stand on the Temple Mount turn their faces toward the Holy of Holies." This version may well reflect an intermediate stage in the transmission of the tradition, between the early versions and the one in the Palestinian Talmud.

66 See, for example, Lieberman, *Tosefta Kifshutah*, 1:44, who compares the Palestinian Talmud version to other readings but soon concludes, "They are the same"; L. Ginzberg, *A Commentary on the Palestinian Talmud* (4 vols.; New York: Ktav, 1941) 3:379 (Heb.); Aderet, *From Destruction*, 103, "During the Second Temple period the Jews had the custom of praying while facing Jerusalem *and the Temple Mount*" (Heb.; my emphasis, *YZE*). This harmonistic approach illustrates the obliviousness toward the developments in meaning and significance of the Temple Mount that occurred over time.

turn [to pray]." When the talmudic author challenges the eternal veracity of this statement due to the realities of the time – "This applies when the Temple was standing, but how do we know [it is true when the Temple] is destroyed?" – the *sugya* introduces an alternative understanding. R. Bon discerns a play on the biblical image, "shapely built (*talpiyot*)" (Song of Songs 4:4). Splitting the Hebrew noun in two, he reads "the hill (*tel*) toward which (literally in Hebrew, "on top of which!") all mouths (*piyot*) pray." Even without solving all the textual uncertainties that arise from other versions of this segment,[67] the gist of its textual moment is clear. It deals with the situation that came into being after the destruction of the Temple. In R. Bon's formulation, the word "*tel*," denoting the Hebrew hill or mountain, substitutes for the word "*heikhal*" in R. Joshua's interpretation, which means shrine or Temple. Precisely the same change took place in the *baraita*: "the Temple" turned into "the Temple Mount."

To unpack the narrative embodied in this passage: in the wake of the destruction of the Temple the sages were compelled to contemplate the issue of the direction of prayer and asked themselves if it still had any significance, now that the sanctuary was annihilated and the sacrificial process had ceased to exist. Shifting the destination of prayer from the Temple to the Temple Mount can easily be seen as part of this consideration. Whether or not this last proposal is correct, the *baraita* in the Palestinian Talmud provides a glimpse at the process by which "the Temple" was replaced with "the Temple Mount." In the earlier era, rendered by the sources from the Second Temple period (see n. 62 above), people directed their prayers to Jerusalem and the Temple. Only later "the Temple Mount" replaced "the Temple." This change was not absorbed by most of the sources dealing with the direction of prayer, which thus remain faithful to the original hierarchy of locations, but it was preserved in the *baraita* quoted by the Palestinian Talmud.

This partial shift in the prescription for direction of prayer is by no means an isolated case. In the following, I wish to support my argument by showing that such phenomena circulate throughout rabbinic literature. Discerning similar literary and epistemological developments in seemingly unrelated instances reinforces the plausibility of such a dynamic.

Remembering Physical Reality

The mechanism laid out in the previous example for the evolution of both the term and image of the Temple Mount recurs throughout rabbinic literature. In some cases the change is readily apparent. One example from the sphere of

67 Other versions are *Cant. Rab.* 4:4; *b.Ber.* 30a. These are extensively discussed in Ginzberg, *A Commentary*, 3:398–99 (Heb.).

biblical hermeneutics comes in the course of a rabbinic discussion about places that are exempt from the requirement of having a *mezuzah* (a parchment scroll containing some biblical passages, which the *halakhah* requires to be affixed to the doorpost of rooms in Jewish buildings). Based on the scriptural verses that are commonly associated with affixing a *mezuzah* (Deut 6:9, 11:20), the Palestinian Talmud renders a tannaitic *midrash* on the word *uvisheʿarekha* (and on your gates) – "except for the gates of the Temple Mount and the inner Temple courts."[68] Early tannaitic versions of this *midrash*, however, preserved in *Sifre* to Deuteronomy and in the Tosefta, do not mention the Temple Mount at all but rather make it explicit that the issue at hand relates to the gates of the Temple.[69]

In a second example, a mishnaic passage detailing some rituals of fasting days records the disapproval of the majority view, which limits observance of these practices to what took place "at the Eastern Gate and in the Temple Mount."[70] So says the printed version of the Mishnah, as well as the version in the Munich manuscript of the Babylonian Talmud, which quotes the Mishnah, and the Babylonian Talmud too cites this tradition in this way.[71] But none of the Palestinian textual witnesses, known to represent the more original versions of the Mishnah, mention the Temple Mount in this passage – not the so-called Kaufmann manuscript, nor the one from Parma, nor the Cambridge manuscript published by Lowe. Citations of the Mishnah by the Palestinian Talmud show no awareness of this reading either. Most of these sources refer to "the eastern gates," in the plural, not to the Temple Mount.

According to all available evidence, this decisive change occurred between the days of the *tannaim* and the time when the Babylonian Talmud alluded to this source (since the quotation of the Mishnah in the Bavli already has the Temple Mount). It seems plausible that "and the Temple Mount" represents a type of gloss – annotations commonly added by scribes to the margins of manuscripts (although here it could have been added orally) – meant to cope with the fact that the "gates" in the original version appear in the plural. According to this explanation, a later reader assuming only one eastern gate added the

68 *Y.Yoma* 1:1 (38c); *b.Yoma* 11b. I am not aware of any evidence to support Lieberman's reading (*Tosefta Kifshutah*, 4:719) in the Palestinian Talmud ". . . to the gates of the Temple (*habayit*) and the inner Temple courts." Perhaps it is a typographical error.

69 *Sipre Deut.* 36 (Finkelstein, 67); *t.Yoma* (*Kippurim*) 1:2 (Liberman, 220).

70 *m.Taʿan.* 2:5. All variants mentioned in the following discussion are taken from H. Malter, *The Treatise Taʿanit of the Babylonian Talmud*, Publications of the American Academy of Jewish Research 1 (New York, 1930) 55ff. The Mishnah does not state what exactly was enacted by the two *tannaim*, and there were differences of opinion on the matter in the Talmud and among the *Geonim*; see, for example, A. Büchler, *Types of Jewish-Palestinian Piety from 70 B.C.E. to 70 C.E.* (London: Oxford Univ. Press, 1922) 222–41.

71 *B.Roš. Haš.* 27a; *b.Taʿan.* 16b.

Temple Mount to sustain the mishnaic version of "gates" in the plural. Although it is difficult to reconstruct exactly the changes in wording that led to the one preserved in the printed edition of the Mishnah as we have it, the main stages of the process are quite clear, and it is fairly obvious that the expression "the Temple Mount" was not part of the original account.

A third case features similar developments, but this time within the narrative framework of a fictional story. A legend transmitted twice in the Palestinian Talmud (see n. 52) recounts the measures taken by Bava b. Buta to reinvigorate the deserted inner courts of the Temple complex and revive the neglected sacrificial process. According to the story, the fact that the ruling about laying of hands on sacrificial animals accorded with the school of Shammai resulted in people avoiding animal offerings altogether. Troubled by the empty inner court – the *ʿazarah* (fig. 2:B) – of the Temple but not dismayed, Bava b. Buta decided to reinstate the law according to the school of Hillel. Thus, the story concludes with the protagonist b. Buta bringing thousands of animals to display in the Temple Mount and calling upon the nation to renew the sacrificial process in accordance with the more popular Hillelite *halakhah*.

The literary structure of the Palestinian Talmud passage shows the final location, "Temple Mount," to be out of place. The motif that shapes the plot centers on "the empty inner court (*ʿazarah*)," and thus generates the expectation that Bava b. Buta's actions will fill this void and that the story will conclude in the inner courtyard itself. Indeed, in another, apparently earlier version of this legend, in the Tosefta, the plot culminates in "he placed them (the animals) in the *ʿazarah*."[72] It seems that the process described above, in which "the Temple Mount" replaced early terms associated with the Temple, occurred here as well.

Finally, a fourth example of placing an authentic structure within a setting that did not prevail at the time involves the above-mentioned amoraic debate about the identification of the "*birah*." R. Yoḥanan maintains, "There was a tower on the Temple Mount that was called *birah*," while R. Simeon b. Lakish contends, "the entire Temple Mount was called *birah*" (above, pp. 15). Undoubtedly, an architectural structure (tower, fortress, garrison?) by that name stood somewhere in the vicinity of the Temple during the Second Temple period; the Mishnah mentions it a few times, Josephus confirms it, and also provides its Greek transliteration "*baris*." Its earliest usage in relation to the Temple in Jerusalem reaches back to the book of Nehemiah.[73] But all early sources establish the location of the "*birah*" as simply next to the Temple – both in rabbinic literature, including the passage in the Mishnah about whose interpretation the *amoraim* were

72 *T. Ḥag.* 2:11 (Lieberman, 385–86); also in *b. Beṣah* 20a.

73 For example, Nehemiah 2:8, 7:2; *m. Pesaḥ.* 7:8; *m. Zebaḥ.* 12:5; *m. Parah* 3:1; *m. Tamid* 1:1; Josephus *A.J.* 15:403, 409 (Marcus, 8:194–96); Josephus, *B.J.* 1:75 (Thackeray, 1:38). For a full discussion of the numerous sources mentioning the term *birah* and the suggestions made by scholars for its

debating, as well as Josephus. It is entirely possible, as Paul Mandel claims in his study of the term *birah*, that at a certain stage during the Second Temple period the denotation of this name was extended to include the entire Temple area.[74] This, however, only underscores the absence during that time of the term "Temple Mount," which would have obviated the necessity for finding another term to describe exactly the same area. Apparently, here too the designation "Temple Mount" entered rabbinic discourse only at a later stage, and the *amoraim* introduced it into earlier memories of the Temple area. The "*birah*" represents an authentic structure of Second Temple landscape; the "*birah* on the Temple Mount," however, pertains to an artifact of amoraic memory.

These four cases shed light on how the rabbis shaped their memory of physical space. How do architectural elements or spatial organizations from the past register in the mind of the individual or in the collective consciousness of a group? Unlike the earlier example discussed in this essay about the direction of prayer, the Temple Mount in the last few cases does not take center stage. Rather the gates and *birah* are the important features, either as halakhic categories or as venues for certain rituals and stories. The Mount is mentioned in passing and therefore in a way that allows a neutral glimpse into the inventive process of memory.

Clearly gates existed in the Second Temple complex as well as inner quads and other structures such as the *birah*, and later generations listed them in their literatures in a very inventorial way. That is to say: there were many physical features at that time, and only those that were associated with an issue worth remembering earned a spot in the traditions. The terminology utilized to present this area, however, dramatically altered with the addition of the Temple Mount. There is no hint that the people of the Second Temple period thought about the site on which these rituals and practices took place as "the Temple Mount." All early versions of the traditions cited above allude to this area as an independent designation. The "eastern gates," for example, probably pointed to the space between the two eastern gates leading to the Temple, the eastern entrance to the women's court, and the gate leading from it to the Israelites' court (often incorrectly called "the Nicanor gate"; see fig. 2).[75] The same holds true for the *birah* and the *ʿazarah*. Only at a later stage in the transmission of these *halakhot*, either in the tannaitic period or sometime between that time and the following amoraic era, were the traditions reworded and

meaning as well as its location, see P. Mandel, "'Birah' as an Architectural Term in Rabbinic Literature," *Tarbiz* 61 (1992) 195–217 (Heb.); J. Schwartz, "The Temple in Jerusalem: Birah and Baris in Archaeology and Literature," in M. Poorthuis & Ch. Safrai, eds., *The Centrality of Jerusalem: Historical Perspectives* (Kampen: Kok Pharos, 1996) 29–49.

74 Mandel, "Birah," 209–10 (Heb.).

75 J. Schwartz, "Once More on the Nicanor Gate," *HUCA* 62 (1991) 245–83.

the location "Temple Mount" introduced. Whereas in the early literary strata they were simply gates – eastern gates or the gates of the Temple – and a structure named *birah*, they were transformed over time into something new – the gates and *birah* of the Temple Mount. As a result, a new feature emerged that had not been part of the original cluster of memories.

The same process marks the shift of consciousness from the *ʿazarah* as the physical destination of offerings to the Temple Mount. The story of Bava b. Buta shares common traits with the first fruits liability case, analyzed by Halivni, as well as with the destination of prayer case discussed above (pp. 20–23). Here too the introduction of the Temple Mount reshapes the memory of the physical layout of the Temple.

All in all, these sources indicate that a variety of physical elements, all remembered as associated with the Temple, changed at a certain stage to the realm of the Temple Mount. I have provided evidence to substantiate the claim that this change had a chronological dimension as well: at first these elements were all seen as related to the Temple and over time reallocated to the Mount. I call this process "innovative perception."

Reverence for the Temple and the Temple Mount

A series of tannaitic and amoraic sources cite an extract of a halakhic (legal) enactment that details the prohibitions applying to people entering the Temple Mount. The table on the following pages lists the main versions.[76]

The four documents clearly differ in both language and literary style: *Sifra* and *Sifre* to Deuteronomy interlace the legal segment into their homiletic discourse, while the Mishnah and the Tosefta list it within their halakhic inventory. The substance of the prohibition also fluctuates among the sources, and even the three similar versions – *Sifra*, Mishnah, and *Sifre* – enumerate different items (the traveling bag appears only in *Sifra*; the shortcut and spitting are

76 *Sipra Qedoshim* 7:1 (Weiss, 90d–91a), trans. J. Neusner, *Sifra: An Analytical Translation, BJS 140* (3 vols.; Atlanta: Scholars Press, 1988) 3:126; *m.Ber.* 9:5, trans. (with slight changes) Danby, *The Mishnah*, 10; *Sipre Deut.* 258 (Finkelstein, 282); *t.Ber.* 6:19 (Lieberman, 38–39), trans. T. Zahavy in J. Neusner and R. S. Sarason, eds., *The Tosefta: Translated from the Hebrew* (6 vols.; New York: Ktav, 1977–86) 1:41. Amoraic literature also cites these sources. The *midrash* in *Sipre* is brought in *b.Yebam.* 6b; the passage in the Tosefta is cited with slight changes in *y.Ber.* 9 (14c); *Eccl. Rab.* 4:17; *b.Ber.* 62b. For the version of the Tanḥuma-Yelamdenu group, to which Deuteronomy Rabba also belongs, see the following note. The citations in medieval literature, both in the various compilations and in the works of the medieval commentators, were collected in the critical edition of the Mishnah published by N. Sachs, ed., *Mishnah Zeraʿim ʿim shinuyei nusḥaʾot* (2 vols.; Jerusalem: Yad ha-Rav Herog – ʾiḥud mifʿalim Toratiyim-sifrutiyim, Mekhon ha-Talmud ha-Yisreʾeli ha-shalem, 1972) 1.88–90.

absent from *Sifre Deuteronomy*), while the fourth source, the Tosefta, presents a different version, which resembles the others only partially (the dust on one's feet and one's money belt).

Nevertheless, all the sources share considerable ground. Structurally, all commence with the frame, "One should not enter . . . the Temple Mount with . . . ," and three out of four conclude by forbidding spitting at the site (only in *Sifre* is spitting not mentioned, perhaps evidence that this item was added only in the second stage). Even more so, the three sources that include spitting all mention that it was taken into account due to a logical inference known in rabbinic hermeneutics as *qal va-ḥomer*; namely, if a relatively innocent act with no explicit disparagement such as entering with dust on one's feet is prohibited, then logically a more serious act of contempt, such as spitting, must also be disallowed.

The general spirit of the prohibitions and their purpose are also identical in all sources. They are meant to establish a norm of respectful behavior, as manifested in the ban on bringing in mundane articles that people use in their everyday lives, the requirement of cleaning one's feet, and the proscription against acts that show disrespect for the holiness of the place (spitting and using the site as a shortcut). Finally, despite the differences listed above, the details of the prohibitions share a common core: the dust on one's feet and one's money belt are mentioned in all four, while one's walking stick, shoes, and spitting are in three out of the four.

Thus, the nucleus of all the traditions, on which variations were formulated over the years, is clear. The common features define an independent literary pericope within the larger literary units and distinguish it from adjacent components. Even though the various tannaitic compositions integrated this segment into larger textual contexts, it can be extricated and studied independently as the legal manifestation of "reverence for the Temple" – to use the terminology of the *Sifra*.

If such a *halakhah* had indeed existed in the days of the Temple, it would be a sound testimony that the Temple Mount, as both an ontological category and a physical structure, had been important in the objective and subjective reality of that period. But another adaptation of this passage voices a rather different version in one essential detail. This is a halakhic tradition in a group of closely related texts known as *Midrash Tanḥuma-Yelamdenu*, and its early formulation may be found in a manuscript of *Deuteronomy Rabbah* published by Lieberman. It reads as follows:

> What [is the law regarding] a person entering the Temple Mount with his staff and his footwear and the dust on his feet? This is what our sages

1.	*Sifra*	Is it possible that the building of the house of the sanctuary (*beit ha-miqdash*) will override the restrictions of the Sabbath? . . . It is not the Sabbath that you fear but the one who gave the commandment concerning the Sabbath.
	Mishnah	One is bound to bless for the bad just as he blesses the good.
	Sifre to Deuteronomy	
	Tosefta	

2.	*Sifra*	I know that this is the case when the house of the sanctuary is standing; how do I know the ruling when the house of the sanctuary is not standing? Scripture says "You shall keep my Sabbaths and revere my sanctuary; I am the Lord." Just as keeping the Sabbath is for all times, so the reverence for the Temple (*miqdash*) is to be forever.
	Mishnah	One should not behave frivolously while facing the Eastern Gate since it faces toward the Holy of Holies.
	Sifre to Deuteronomy	"And your camp shall be holy" (Deut 23:15) – make it holy.
	Tosefta	

taught: It is forbidden for a person to enter the Temple with his footwear and the dust on his feet. And you must not say that since the Temple has been destroyed he (is allowed to treat it (the Temple) frivolously, but [rather the law is the same] if it is standing or destroyed.[77]

The author of this *midrash* quotes what he believes to be an early *halakhah* (This is what our sages taught). Its closeness to the versions presented above is unmistakable, if only from the items it includes – the shoes and the dust on one's feet – which resemble almost verbatim the other traditions. The similarity, in

77 *Deut. Rab. Va-eṯhannen* (Lieberman, 34, 43). A similar passage of the same textual tradition is found in *Tanḥ. Leviticus* 8 (Buber, 5–6), and in the printed edition 6, but it would seem that these texts were already adapted to the accepted version throughout rabbinic literature, so that "the Temple Mount" appears there instead of "the Temple."

3. *Sifra* What constitutes reverence? He may not enter the Temple Mount with his staff, and his traveling bag, and his footwear or his money belt or with the dust upon his feet, nor may he make of it a short by-path; still less (the rabbinic logical concept of *kal va-ḥomer – a fortiori* reasoning) may he spit there.

Mishnah He may not enter into the Temple Mount with his staff or his footwear or his money belt or with the dust upon his foot, nor may he make of it a short by-path; still less (the rabbinic logical concept of *kal va-ḥomer – a fortiori* reasoning) may he spit there.

Sifre to Deuteronomy Hence [the sages] have said: One should not enter the Temple Mount with his staff or his footwear or his money belt or with the dust upon his feet.

Tosefta One should not enter the Temple Mount with money tied in his purse or with the dust upon his feet, or with his money belt girded to the out side [of his garments]. As scripture says, "Guard your steps ["feet"] when you go to the house of the Lord" (Ecclesiastes 4:17). And spitting [is forbidden] by *a fortiori* reasoning – if a shoe that is not contemptuous . . . how much more so is spitting.

both literary format and language, between this passage and the other versions of the *halakhah* precludes the possibility of two distinct traditions with separate origins. One way that two unacquainted individuals could come up with the same wording and content is by sharing a mutual source. With no hint that such an *urtext* existed, it is safer to assume a literary development, namely that one version was changed into the other, even if not directly.

Profoundly different, the present source uses the designation "Temple" instead of "Temple Mount" to denote the place where these *halakhot* apply. A variety of reasons point to the "Temple" as the preferable, indeed more original, of the two versions. The "Temple Mount" formula uniformly prevails in all other tannaitic sources of this *halakhah*. The *amoraim* were well acquainted with it and not only quoted it many times but even used it as the contextual skeleton for some of their work, such as the legend about Alexander the Great

(cited above, pp.15), requiring him to follow such a *halakhah* when he entered the Temple Mount. Therefore, if the author of the *Deuteronomy Rabbah* passage, or anyone prior to him, had found the designation "Temple Mount" in the versions before him, he would not have changed it to "Temple." Moreover, the question that introduces the passage shows clearly that he was seeking legal material concerning the Temple Mount, so that if he had stumbled across such a *halakhah*, he certainly would not have made the mistake of changing it to refer to the Temple.

The *Deuteronomy Rabbah* passage should therefore be seen as evidence of an early version of the ruling regarding "Temple reverence," showing that at first it applied to the Temple itself rather than the Temple Mount. This would not be the first, and definitely not the only, case in which the relatively late *Midrash Tanḥuma-Yelamdenu* collection in general, and in the *Deuteronomy Rabbah* text published by Lieberman in particular preserved primeval halakhic versions.[78]

If I am correct in this reconstruction and the *halakhah* in its early version indeed addressed behavior in the Temple rather than the Temple Mount, two fundamental phases in the history of the "reverence for the Temple" laws become apparent. Originally they were about the Temple itself, including its various chambers and inner courts, and the *Midrash Tanḥuma-Yelamdenu* formulation in *Deuteronomy Rabbah* preserved an ancient version of this early stage. Only in a later revision was the *halakhah* rephrased, with the Temple Mount taking the place of the Temple. Various adaptations of this second version were embedded in the four different settings of tannaitic literature discussed above.

Indications of such a process may also be found in the overall design of the *Sifra* portions on this subject. The opening two sections of that *midrash* direct the reader's attention to the Temple. In a hypothetical negotiation, very typical in rabbinic discourse, the first section of the passage weighs the magnitude of the Temple against the importance of the Sabbath. The second section associates the two, concluding that just as the observance of the Sabbath is everlasting, so too the "reverence for the house of the sanctuary (the longer name for the Temple) is forever." As is common to the associative dialogue of the rabbis, a question follows: "What constitutes reverence?" While the reader expects details of *halakhot* dealing with reverence for the Temple itself, the subject of the previous discussion, the author diverges into prohibitions associated with the Temple Mount instead. The *midrash* begins with the Temple but ends unexpectedly with the Mount. This conceptual and substantive discrepancy

78 See, for example, Lieberman's discussion in the preface to his *Deut. Rab.* edition, pp. xxi–xxiii; M. Bregman, "Early Sources and Traditions in the Tanḥuma-Yelammedenu Midrashim," *Tarbiz* 60 (1991) 269–74 (Heb.).

reflects a perspective according to which the Temple Mount and the Temple are one and the same.

The second segment of the *midrash* presents the literary moment in which this situation came to pass as the time in which "the Temple does not exist." It is from this perspective that the author lists the *halakhot* of reverence for the Temple Mount in the third section, as if saying, "Even now, when the Temple has been destroyed, we can carry out the precept 'reverence for the Temple is eternal' by applying the detailed *halakhot* for the Temple Mount."[79] The "*halakhot* of reverence for the Temple" thus became "*halakhot* of reverence for the Temple Mount" only after the Temple no longer existed, representing the view that reverence for the Temple continued even in its absence.

The *Sifra* does not reveal to its readers what the *halakhot* of reverence for the Temple were like before the destruction of the Temple, but these are clear in *Deuteronomy Rabbah*. They were comprised of exactly the same requirements, except that they were carried out at the Temple rather than the Temple Mount.

Another tradition supporting the view presented here regarding dynamic developments in the laws of reverence for the Temple may be found in the Babylonian Talmud. R. Bibi issues a statement attributed to R. Joshua b. Levi according to which "Anyone who spits on the Temple Mount at this time is as if he spat in the pupil of His (God's) eye, as it is said, 'My eye and my heart will be there (in the Temple) forever' (1 Kings 9:3)."[80] Even though the good textual witnesses do not support the temporal collocation "at this time," deeming it a later addition, scholars have noted that it probably represents R. Joshua's intention, since the verse he cites stresses God's presence there "forever."[81]

The exact wording of R. Joshua's statement faded into what seems to be an intricate disarray of textual variants and conflicting versions.[82] The present status of the sources does not allow a well-founded hypothesis about the original

79 In one of the later parallels to the *Sifra* (*b.Yebam.* 6b), the *amoraim* no longer recognized the distinction made by the *halakhah* between the time that the Temple was still standing and the time after it had been destroyed, so they apparently changed the order of the segments and transferred the second part in the *Sifra* to the end of the passage. According to this ordering the *halakhot* prescribing reverence for the Temple Mount applied even at the time of the Temple, and the innovation in the interpretation is only that they continue forever. But it seems that this is a Babylonian amoraic interpretation that is no longer aware of the conceptual difference between the Temple Mount and the Temple. Cf. Safrai, "Pilgrimage," 385; in quoting this *halakah* from the *baraita* in the Babylonian Talmud, he seems to have missed the difference between the sources and their historical implications.

80 *B.Ber.* 62b. Textual variants are discussed in the following notes.

81 R. N. Rabbinovicz, *Dikdukei Soferim Berakhot* (Munich: H. Roesl, 1886) 364, n. 40; Ginzberg, *A Commentary*, 2:309, n. 29 (Heb.).

82 A parallel text in the Palestinian Talmud applies the proscription to the synagogue; see *y.Ber.* 3:5 (6d). Other versions preserved in medieval literature replace the "Temple Mount" with either

formulation of the statement. Equally difficult would be to determine whether it was first associated with the Temple (as several medieval versions have it) and only afterward was altered into the Temple Mount and then to the synagogue, a logical sequence with no textual support, or whether it was about the Temple Mount from the start. Clearly, however, the version in which R. Joshua's remark refers to the Temple Mount is well founded, thus further illuminating the process by which the *halakhot* about reverence for the Temple developed in the period after the destruction, even if it does not allow fixing with certainty the stages of this development.

The Mountain Image

To prescribe the celebration of the three major pilgrim festivals – Passover, Shavuᶜot (the holiday of Weeks/Pentecost), and Sukkot (Booths) – the Bible uses the term "appearing" (*reʾiyah*). One is obliged to appear in the chosen place –"Three times a year all your males shall *appear* before the Lord your God at the place that he will choose . . ." (Deut 16:16; Exod 23:17). What is that place?

In the context of recording a tannaitic dispute about the obligation of a minor to embark on the pilgrimage journey, the Mishnah outlines the route that visitors take when approaching the Temple. It describes the final portion of this itinerary as "going up from Jerusalem to the Temple Mount."[83] Quite clearly, this constitutes an imaginary schematization of Jerusalem's topography, which may be accounted for only when people approach the Temple from the so-called Lower City of Jerusalem (also known as the city of David; see fig. 1). Anyone who has ever stood in the section of town known as the "Upper City" (the so-called southwestern hill, which now pervades the area between the Tower of David and Jaffa Gate, on one side, and the Jewish Quarter, on the other) would recognize that it rises above the Temple area, so reaching it necessitates descent rather than ascent. The same holds true for the northern neighborhoods of Jerusalem. It would thus seem that the use of the term "mountain" accentuated an already existing image of a high place for the Temple. Such a fantastic topography of the city and the sanctuary could be traced back to early texts such as the famous depiction of Jerusalem in the Letter of Aristeas, which arranges Jerusalem's landscape as a high mountain with the Temple on its

"inside the house (Temple)," apparently by taking off the first word in the Hebrew phrase *har ha-bayit* and leaving the second intact, or with the more common Hebrew name for the Temple, *beit ha-miqdaš*. In some cases the tradition is brought in the name of a different sage, R. Assi, which shows that there may have been quite a number of formulations. See Ginzberg, *A Commentary*, 2:309–10. To his list of sources one may add *Yalqut Shimᶜoni* Kings 195. Ginzberg's reconstruction of the original version of the tradition is, as he himself admits, only one possibility out of several.

83 *M.Ḥag.* 1:1.

top. The roots of this picture lay in the image of the cosmic mountain which various biblical authors bestow upon Jerusalem and its Temple.[84]

But in addition to the fanciful topography, this source provides an inaccurate picture of tannaitic *halakhah*. According to its prescription to fulfill the biblical injunction to appear, which, as mentioned, was the foremost manifestation of pilgrimage, one needs to arrive merely at the Temple Mount. Only one other rabbinic text supports this assertion. An early rabbinic fragment that was preserved only in the Yemenite medieval text Midrash ha-Gadol (from which Epstein and Melammed reconstructed the Mekhilta of R. Simeon b. Yoḥai) conveys a similar position: "And when you do not celebrate [the three pilgrimage festivals] properly, I consider it as if you unlawfully used (*meʿilah*) the Temple Mount and the [Temple] inner courts."[85] The Temple itself has vanished from the picture.

As Halivni pointed out, according to accepted rabbinic *halakhah* arriving at the Temple Mount (fig. 2:D) did not satisfy the injunction "to appear." The very essence of pilgrimage ritual comprised of the individual entering the inner court of the Temple (the *ʿazarah*; fig. 2:B), where the first stages of the sacrificial process (known as the burnt offering of appearing – *ʿolat reʾiyah*) took place. One of the *amoraim*, R. Bun b. R. Ḥiyya, already recognized the halakhic inconsistency implied by this Mishnah, as if the injunction to appear could be achieved by arriving at the Temple Mount. He therefore questioned: "Where did they show their face (fulfill the injunction to appear) – in the Temple Mount or in the inner Temple courts?" The answer bounced back naturally: "In the inner Temple court they [were required] to show their face (fulfill the injunction to appear)."[86]

If so, why did the Mishnah present the Temple Mount as the final destination on the pilgrimage route? Recall that Halivni claims that this Mishnah reflects an early situation in which the appellation "Temple Mount" was synonymous with "the Temple." In his view, when the *tannaim* spoke of "the Temple Mount," they actually meant "the Temple." I accept the essence of this solution but reverse the time frame he suggests. In my opinion, it is not the earlier glossary that reverberates in the Mishnah but rather the later one.

According to this reconstruction, the initial version of the *halakhah* presented the inner court of the Temple – the *ʿazarah* – or the Temple itself as the

84 See the discussion and bibliography in Y. Z. Eliav, "The Temple Mount in Jerusalem as a Cultic Site and Political Center in Judaism and Christianity," in Y. Reiter, ed., *Sovereignty of God and Man: Sanctity and Political Centrality on the Temple Mount*, JIIS 88 (Jerusalem: Mekhon Yerushalayim le-ḥeker Yisraʾel, 2001) 29–30 (Heb.).

85 *Midr. ha-Gadol Exod.* 24:13 (Margulies, 542) = *Mek. R. Šim.* 24:13 (Epstein and Melammed, 218).

86 *Y.Ḥag.* 1:1 (76a). See Halivni, *Midrash*, 24–25. For more about the pilgrimage commandment and its fulfillment precisely at the Temple, see S. Safrai, "The Duty of Pilgrimage to Jerusalem and Its Performance during the Period of the Second Temple," *Zion* 25 (1960) 69–72 (Heb.).

final target for accomplishing the injunction to appear. Echoes of such an early form of the *halakhah* can be found in other sources discussing the pilgrimage commandment. A midrashic segment preserved in the Tosefta about the biblical directive, "You shall go there and you shall bring there [your burnt offerings and other sacrifices]" (Deut 12:5–6), reads, "Those that are fit to enter the inner court (*ʿazarah*)."[87] It shows the mind of its author to be set on the Temple and its inner courts rather than the Temple Mount. A passage in the Mekhilta presents similar inclination when the same pilgrimage *halakhot* as in the Mishnah are discussed (but this time in the literary mode of halakhic *midrashim*) and the Temple Mount is not mentioned at all.[88]

It seems to me that the writer of the *halakhah* in the Mishnah under discussion rephrased the topographic expression according to what was accepted in his day, from Temple or inner court to Temple Mount. In his mind the Temple Mount functioned as a legitimate representation of everything associated with the Temple. The word *har* (mountain) also fits the content of the issue at hand, which deals with the arduous conditions involved in the pilgrimage (literally, "going up for the festival") of a minor child. What could be more strenuous for a child than to climb a mountain? By making this substitution, the author deviated from both the topographical reality of the site and the halakhic definitions of the injunction to appear. He also reveals to us how the place registered in his mind.

An interesting parallel to this last case comes from a passage in the halakhic *Midrash Sifre Zuttah* detailing actions that are usually forbidden on the Sabbath but are nevertheless permitted for the sake of maintaining the sacrificial process. Among the four activities allowed by R. Eliezer, known for his leniency on this issue, the *midrash* lists, "Loading it (the animal to be sacrificed, and carrying it) from Jerusalem to the Temple Mount," as an example of allowing the normally prohibited deed of carrying in the public domain on the Sabbath.[89] The halakhic context here offers a completely different set of circumstances than that of the previous *halakhah* about pilgrimage, and the article being transported is also dissimilar – a minor child in the pilgrimage instruction and an animal to be sacrificed in the present case. But the expressions used to describe the topography are identical.

The phrase in question, describing the route for transporting the animal from Jerusalem to the Temple Mount, breaks the monotonous arrangement of the list in the *midrash*. The passage does not provide any similar details about the context, whether topographic or other, of the three other actions permitted

87 *T.Ḥag.* 1:1 (Lieberman, 374).

88 *Mek.* Tractate *Kaspa* 20 (Horovitz and Rabin, 333).

89 *Sipre Zu. Behaʿalotkha* 9:2 (Horovitz, 257). Concerning R. Eliezer's position on this issue, see Y. D. Gilat, *R. Eliezer Ben Hyrcanus: A Scholar Outcast* (Jerusalem: Bar-Ilan Univ. Press, 1984) 205–11.

by R. Eliezer – the two preceding the transporting of the animal and the one following it. In all those cases the passage offers merely a formula stating what is allowed. This deviation from the normal literary rhythm of the passage suggests, although without any definite proof, the interference of a later hand. Indeed, other versions of the list of four activities permitted by R. Eliezer – in the Mishnah and in the Palestinian Talmud (see n. 89) – mention only carrying the animal, and the phrase portraying the route is nowhere to be seen.

The proximity between the wording here and in the *halakhah* about pilgrimage, both in the action ("carrying") and in the route (from Jerusalem to the Temple Mount), even though the context is so different, suggests that the image of high mountain had become a familiar archetype in the language of the *tannaim*. A similar paradigm lies behind the famous legend cited above (see n. 44) about the rain that fell on Jerusalem in response to Ḥoni the circle drawer's prayer. According to the version in the Mishnah, when the heavy rain became unbearable, "they went up" (according to the good textual witnesses) to the Temple Mount. Here too, the *tannaim* communicate a mythic image of the Temple Mount as a high place, and they also utilize the literary model in which people climb from Jerusalem to the Mount. In Ḥoni's case, however, no decisive evidence remains about who formulated the story in this way or who introduced the term "Temple Mount" and its precipitous image. One hint that "the Temple Mount" might have been added at a later stage derives from other versions of the story, first and foremost that in the Tosefta, that do not mention the Temple Mount at all. According to the account in the Tosefta, the people of Jerusalem were sent out of the city to the "cliff of the ᶜOphel."[90]

These minute details of *halakhah*, biblical hermeneutics, and legendary narratives accumulate to give shape to a sacred structure – the Temple Mount. The rabbis meticulously inscribe it into the spatial organization of ancient Jerusalem – they mold it to be part of the Temple and dress it in the customs, vocabulary, and traditions of their ancestral holy place. But if I am right in my analysis, this

90 Also relevant here is the tradition rendered by the Yerushalmi in connection with the Ḥoni story, according to which the people "went up to the Temple Mount" because it was covered with a roof; see *y.Taᶜan.* 3:10 (66d). This is clearly an exaggeration, or a late product of the imagination, since the sheltered portions of the Temple area included only a relatively narrow strip of surrounding colonnades and the Royal basilica to the south of the complex but surely not the entire compound. Also note that the description here is somewhat opposed to that in the Mishnah, where the reason for going up to the Temple Mount was its height: when Jerusalem was flooded, its inhabitants climbed up to the highest place. Why would someone change the description of the place from "high" to "covered"? Perhaps this derived from the acquaintance of the Palestinian *amoraim* with the area, which showed them that the Temple Mount is not the highest place in Jerusalem. To those who look at Jerusalem from the Mount of Olives, as people in that period often did, this is very clear.

entity prevailed only in their own time, functioning in their consciousness and literature. The destruction of 70 C.E. stripped the Temple from its glory, leaving its compound orphaned and desolate. In ensuing years rabbinic literature endowed the ruined space of the Temple with a new life, labeling it with an ancient biblical name (see n. 148), presenting it as a mountain, and resuscitating its image with Second Temple oxygen. The Temple Mount therefore should be seen in this context as a sacred space in the landscape of memory.

Not all occurrences of the Temple Mount in rabbinic literature are as clear about the process embodied in this term as those discussed above. In a field of research where the preservation of sources is by nature fortuitous, it is not surprising that the various junctures in the composition of an entity often remain unknown or cryptic at best. Knowledge of anything beyond a reasonable doubt is a luxury seldom available to students of the ancient world. Consequently, extrapolation from one case to another, if responsibly handled and based on measurable criteria, is a legitimate means of scholarly reconstruction. The test for any theory involving the ancient world remains how sound its more substantiated parts are and, not less important, how far the less corroborated components are taken. The following example presents such a case, which will take the discussion of the Temple Mount a step further – from the realm of memory to its implementation in ideology and even day-to-day practices.

Conceiving the Sacred; Ideating the Mount

More than any other source, Mishnah *Middot* formulated the Temple Mount's conceptual shape for future generations and established its image as an inseparable constituent of Second Temple Jewish experience. Time and again the text focuses the reader's attention on this space, defining its dimensions and boundaries, listing its gates, detailing its customs and stationing its guards. Its descriptions lend more than just graphical flavor, as if invoking their addressees to shut their eyes and envisage the Mount in their minds. Consider the following passage:

> The Temple Mount measured five hundred cubits by five hundred cubits. The largest [open] space was to the south, the next largest to the east, and the third largest to the north, and its smallest [open] space was to the west. The place where its measure was greatest was where its use was greatest.[91]

The precise measurements inscribe a perceivable physical unit. Next, the reader embarks on a panoramic tour of the grounds. The Mishnah stipulates the

91 *M.Mid.* 2:1.

proper rules for entering and behaving in this area: "Everyone entering the Temple Mount enters from the right and circles [the compound] and exits on the left." It goes on to specify who the exceptions are (mourners and excommunicated persons), and it even regulates how people engage these individuals, laying down a set of formulas for inquiring as to their welfare and wishing them relief from their sorrow. Elsewhere in the same tractate the text enumerates five gates that were on the Temple Mount and details the protocol for maintaining order – the Levite sentinels who watched the gates as well as other places on the Temple Mount, the "Temple Mount man" who was in charge of the guards, and the extent of his authority.[92] The outcome of this literary discourse is a tangible image, which is seemingly remembered from earlier times. The Mishnah weaves the physical structure named the Temple Mount into Second Temple landscape.

Furthermore, tannaitic literature takes its audience beyond the physical dimension of the place. The sages consider the Temple Mount not only a piece of land but hallowed ground, a sacred space. Expressing this notion is one of the most famous sources, often mentioned to support scholarly opinion about the dominant status of the Temple Mount in the Second Temple Judaic worldview. An excerpt in Mishnah *Kelim*, seemingly communicating Second Temple notions, enumerates ten gradations of holiness and features the Temple Mount as the centerpiece of this hierarchy (see above p. 14, and n. 49).

> The Temple Mount is still more holy (than the city of Jerusalem). For no man or woman that has a flux, no menstruant, and no woman after childbirth may enter there.

A second, more condensed, three-tiered ladder of the sacred realm also appears in rabbinic texts. This classification equates the topography of Second Temple Jerusalem with the three camps of the wandering Israelites in the Sinai desert – priestly, Levite, and Israelite. The Temple Mount serves as a key factor in this list as well: "from the entrance to Jerusalem till the Temple Mount is [considered] the Israelite Camp; from the entrance to the Temple Mount till the inner Temple court is [considered] the Levite Camp."[93]

It is only natural that these texts drew most of the attention of scholars who investigated the Temple Mount. Archaeologists and historians as well as other people, mainly contemporary rabbis committed to disentangling matters of practical *halakhah*, spared no effort in trying to locate the exact site of the 500-by-500-cubit square mentioned in Mishnah *Middot*. The main obstacle for these

92 *M.Mid.* 2:2, 1:1–3.

93 *Sipre Num.* 1 (Horovitz, 4 line 7–9); *t.Kelim B. Qam.* 1:12 (Zuckermandel, 570). References to later rabbinic compositions that incorporate this excerpt are listed in Horovitz's notes.

investigations lies in the fact that the area encircled by the wall that is visible today, and that everyone agrees corresponds by and large with the work of King Herod, does not fit the dimensions of the Temple Mount as delimited by the Mishnah. The varied creative ideas proposed for reconciling this discrepancy, and the perplexing geometric shapes that were drawn in an effort to locate the square "Temple Mount" of the Mishnah within the trapezoidal Herodian enclosure, deserve a study of their own. The dominant view interprets the mishnaic measurements as belonging to what scholars call the "early Temple Mount," from before the time of Herod's endeavor, and it is therefore customary to label them as marking the "Hasmonaean Temple Mount." As for why the sages should have preserved the dimensions of a place that had become insignificant even when the Temple still existed since Herod had built a much larger complex, the common answer surmises that even in Herod's time the early sacred zone continued to play an important role in the halakhic system that served the Temple.[94]

It seems to me that these conjectures should be rejected for a number of reasons. First, the schematic nature of the formula "five hundred by five hundred" ought to arouse doubt in the mind of anyone trying to apply it to a particular historical moment. Second, several considerations call attention to the unrealistic disposition of these figures. The exact correlation with the dimensions

94 From among the numerous studies discussing this issue, see, for example, Ch. Albeck, *Shishah sidrei Mishnah* (6 vols.; Tel Aviv: Bialik Institute and Dvir, 1952–59) 5:431, who summarizes his discussion as follows: "It may be assumed that the measures in the Mishnah are consistent with the real situation" (Heb.); M. Avi-Yonah, "Beit ha-miqdash ha-sheini," in M. Avi-Yonah, ed., *Sefer Yerushalaim* (Jerusalem: Bialik Institute and Dvir, 1957) 394, 414–15 (Heb.). Avi-Yonah attributes the measure of 500-by-500 cubits to the days of the high priest known as Simeon the Righteous, at the beginning of the second century B.C.E. (394). In order to give meaning to these figures at the time of Herod, Avi-Yonah outlines a sort of "Temple Mount enclosure" on his map (415), between the Herodian enclosure and the Temple; he also moves the *soreg* (the stone railing) from the place assigned to it by the Mishnah and claims that it "apparently circumscribed the 500 x 500 cubit square" (414). The same proposal is taken up in S. Safrai, "Temple: Second Temple," *EJ* 15 (1971) col. 965; Safrai, "The Temple," in Safrai, *The Jewish People*, 865–66. Such a claim totally contradicts *m.Mid.* 2:3, which states that the *soreg* was inside the Temple Mount and not surrounding it, and Avi-Yonah himself does not even apply it in his map, drawing the *soreg* in the customary way, as enclosing only the "rampart (*ḥeil*)." He thus ends up with three areas: from the walls of the enclosure to what he calls the "Temple Mount area," from this area to the *soreg*, and from there to the walls of the Temple inner court. The harmonistic nature of such a reconstruction is obvious. For another fantastic reconstruction, see A. Z. Kaufman, "The meaning of the Temple Mount," *Asufot* 2 (1988) 7–16 (Heb.; esp. pp. 8–10, where he surveys medieval sages and present-day rabbis who discussed this issue). See also L. Ritmeyer, "Locating the Original Temple Mount," *BAR*, 18.2 (1992)25–45 (esp. p. 44, where there is a concise survey of the suggestions that have been made for identifying the square in the past century). The very name of his article reveals the methodological blunder underlying it. Ritmeyer, like many other scholars, simply assumes that there was an ancient Temple Mount, which the Mishnah was referring to in its description of a 500-by-500-cubit square, and he channels his virtuoso architectural talents into locating it.

in Ezekiel's vision provides one example. Prophesying the ideal Temple of the future, Ezekiel exclaims, "He measured it on four sides. It had a wall around it, five hundred cubits long and five hundred cubits wide, to separate between the holy and the non-holy."[95] A second example is the use by the author of the Qumranic Temple Scroll of these same numbers for his utopian "middle court" of the Temple.[96] Reverberations of a mythic square surrounding the Temple may also be found in Josephus's description of Solomon's Temple, in which he portrays the court as "in the form of a quadrangle."[97] This line of reasoning supports the claim that schematic dimensions betray a lack of reality.

Third, the sources already discussed in this study make it plain that for the most part the sages too disregarded these dimensions. When rabbinic authors relate to the Temple Mount, they always presume the Temple compound whose boundaries were the walls surrounding the enclosure, not some other 500-by-500 square within this enclosure. Take, for example, the story of R.Akiva and the other sages who visited the Temple Mount and saw a fox coming out of the Holy of Holies (*Sifre Deuteronomy* 43 and parallels); the narrator does not hint that the sages were sojourning at a 500-by-500-cubit square within the larger complex – the story simply says that they entered the ruined compound which he calls Temple Mount. Or consider the tradition about the sages who left their sandals under the *ʾagof* of the Temple Mount (above pp. 8); is it conceivable that in the mind of the raconteur some kind of an entrance stood in the middle of the ruined area, at some imagined 500-cubit line? The same applies to all the many passages cited above, in which the appellation "Temple Mount" clearly signifies the entire enclosure surrounding the place where the Temple had been; people approach it, entering and exiting its gates, and colonnades embellish its encircling walls. None of these texts hint at any 500-by-500-cubit square in the middle of this compound. The suggestion a certain sector called "the Temple Mount" operated within the Herodian complex and that only later on was this name extended to include the full area bounded by the walls is hermeneutic hair-splitting intended only to reconcile the words of the Mishnah with the obvious reality, and it cannot withstand criticism.

I therefore wish to claim that a 500-by-500-cubit square called "the Temple Mount" never really existed. Only after the designation "Temple Mount" was

95 Ezek 42:20. Even those scholars who noticed this parallel did not give it any weight in their historical reconstructions. See, for example, Albeck, *Shishah*, 5:431; Schwartz, "The Temple," 31, n. 9.

96 For the calculations leading to this conclusion, see Y. Yadin, *The Temple Scroll* (3 vols.; Jerusalem: Israel Exploration Society, 1977–83) 1:242–43.

97 Josephus *A. J.* 8:96 (Marcus, 5:622). Scholarly discussions about Josephus' descriptions of the Temple of Solomon are numerous; for a representative summary, see L. H. Feldman, *Josephus and Modern Scholarship (1937–1980)* (Berlin and New York: W. de Gruyter, 1984) 438–44; Yadin, *The Temple*, 192–94.

fashioned and began to play a significant role in the worldview of the *tannaim* was it necessary to demarcate its space in exact measurements, especially since the rabbis wished to present it in Tractate *Middot*, which devotes much attention to dimensional and spatial organization and was designed to depict the ruined Temple and features associated with it. At this point, the sages, like their predecessors during the Second Temple period, turned to the representation of the ideal Temple in Ezekiel, borrowing from it the numerical figures for the Temple Mount's size. Thus the biblical, mythic dimensions set down for this entity were purely imaginary.

It should be emphasized that the expression "Temple Mount" does not appear in any of the writings from the Second Temple period that allude to the squarish proportions of the Temple surroundings (the Temple Scroll and Josephus). As far as the authors of those texts were concerned, they were dealing with the court of the Temple, part of the Temple complex, and nothing else. Only when the term "Temple Mount" was coined did it too receive the utopian dimensions mentioned by Ezekiel. It is precisely the second part of Mishnah *Middot* cited above which scales the level of activity in the various sectors of the Mount according to their size – The largest [open] space was to the south, the next largest to the east, and the third largest to the north, and its smallest [open] space was to the west; the place where its measure was greatest was where its use was greatest (see n. 91) – that evinces some of the real asymmetries of Herod's enclosure, as they were etched in the memory of the *tannaim*. They then squeezed the genuine layout into Ezekiel's schematic dimensions.

In light of this reconstruction, other facets of Mishnah *Middot*'s Temple Mount deserve reexamination as well. One such element emerges as "the officer (the Hebrew *ʾish*) of the Temple Mount," who "used to track every watch" and oversee their performance. This clearly portrays a security position, responsible for the safekeeping of the sanctuary. The question arises, however, whether rabbinic sources preserve an original title for this vocation. Second Temple sources speak of various posts with responsibilities similar to those of the Mishnah's "officer." In 2 Maccabees, for example, in the course of relating the actions of one Simeon "from the tribe of Benjamin," the text assigns him the Greek title *prostatēs* of the Temple, which includes the meaning of "officer" or "guardian." Although 2 Maccabees does not spell out the extent of his authority, it ranks the *prostates* high enough to challenge the High Priest.[98] In the same vein, Josephus introduces the *stratēgos*, explicitly reporting that the Temple guards (the *phulakes*) were subordinate to him.[99] Apparently, the book of Acts also mentions this same position

98 2 Macc 3:4 (Kappler and Hanhart, 55). For the various suggestions raised by scholars as to the nature of this office and the extent of its authority, see J. A. Goldstein, *II Maccabees* (Garden City, N.Y.: Doubleday, 1983) 201–3.

99 *B.J.* 6:294 (Thackeray, 3:460).

twice, unequivocally referring to it as the *stratēgos* of the Temple.[100]

Rabbinic literature adds to the list of officials who are potentially associated with guarding the Temple. Some scholars identify the office of the "deputy (*segan*) [high] priest" with the above-mentioned *stratēgos* of Josephus and Acts. But it seems to me that the duties of this man, which surface in rabbinic texts time and again, did not include security tasks but lay rather in the realm of worship – particularly because one holder of this title (Ḥanina, or Ḥananiah according to some textual witnesses) belonged to the circle of the Pharisees, and many rabbinic traditions are cited in his name.[101]

Other epithets, however, may well have been the Hebrew equivalent of the Greek titles. One example involves the "officer (*ʾish*) of the *birah*." Mentioned rather obscurely in Mishnah *ʿOrlah*, it brings to mind a similar title in the book of Nehemiah, from the early Second Temple period – "the commander (*sar*) of the *birah*."[102] As recognized by previous scholarship (see n. 73), the *birah* clearly manifests military characteristics – sort of a stronghold or a fort contiguous to the Temple complex – and so it would be appropriate for the "officer of the *birah*" to oversee the picket of the Temple enclosure. Even if the *birah*, at least in the later Second Temple period, may be identified with the Antonia fortress, known to accommodate a Roman garrison, it is still plausible to associate with it the Jewish officer responsible for maintaining order at the Temple compound. A second candidate for correlation with the Greek *stratēgos* may be the hero of the legend related above (n. 54) about Alexander the Great's visit to the Temple. The story's protagonist, Gabiah, who encountered the king upon his arrival and made sure his entrance would conform to rabbinic regulations, is said, according to one version, to hold the office of "guardian (*shomer*) of the house."[103]

On the basis of these sources I contend that the title "officer of the Temple Mount" in Mishnah *Middot* mirrors a later formulation of one of the positions that prevailed in the Second Temple period. Linguistically, the shift from "guardian of the Temple" to "guardian of the Temple Mount," or from "officer of the *birah*" to "officer of the Temple Mount," is not radical. Conceptually, however, it represents the transmutation of post Second Temple public memory. If the general theory presented in this study is correct, and the image of "the Temple Mount" and its multi-facet dimensions in rabbinic literature was hammered out only after the destruction of the Temple, then the change in title of

100 Acts 4:1; 5:24.

101 For example, *t. Yoma* (*Kippurim*) 1:4 (Lieberman, 221); *t. Parah* 4:6 (Zuckermandel, 633); *y. Yoma* 3:8 (41a). Contra: A. Büchler, *Die Priester und der Cultus in letzten Jahrzehnt des jerusalemischen Tempels* (Vienna: Lehranst, 1895) 103–18; Goldstein, *II Maccabees*, 201–3; E. Schürer, *The History of the Jewish People in the Age of Jesus Christ*, revised ed. by G. Vermes, et al. (3 vols.; Edinburgh: Clark, 1973–87) 2:276–78.

102 *M.ʿOr.* 2:12; Neh 7:2. For this identification, see Schwartz, "The Temple," 46–47 and n. 45.

103 *Scholion to Megillat Taʿanit* 25 of Sivan (Lichtenstein, 328 line 4). See also above n. 54.

the person responsible for guarding the area from one centered on either the Temple or the military stronghold adjacent to it to the "officer of the Temple Mount" seems reasonable.

The same holds true with regard to the instructions for walking about and greeting people on the Temple Mount that are listed in Mishnah *Middot*. As argued above (pp. 30), these rules originally applied only to the Temple. Likewise, the rules for walking about on the Temple Mount may have originally referred to the "area around the Temple," whatever it might have been labeled (see below, p. 44), and only after the rabbis crafted the image of the Temple Mount they also reformulated these customs to apply to the new entity.

What about the holiness of the Temple Mount? On a literary basis, one could argue that the extract in Mishnah *Kelim* introduces the list as consisting of ten gradations yet actually records eleven – a problem noticed and endlessly debated by scholars throughout the centuries.[104] Such an inconsistency tempts me to speculate that the Temple Mount represents the eleventh item, which was added to the hierarchy of holiness only at a later stage.

A more substantial argument against the authenticity of the Temple Mount in the hierarchy list stems from content and comparative considerations. Structuring the realm of holiness in hierarchal terms, focusing on Jerusalem and the Temple, patterns on an ancient model: its roots are anchored in the prophecies of Ezekiel in the Bible, and it can be traced in many Second Temple sources, especially the Qumranic Temple Scroll.[105] Among these, the ten-tier division maintains primeval pedigree and wider recognition. The number ten entertained a typological category in both Jewish and early Christian circles. Accordingly, miscellaneous inventories adhered to this numeration – the ten plagues, commandments, lost tribes, and days of repentance, to name just a few – and it served as a literary yardstick in texts ranging from the Jewish Egyptian composition known as the *Sibylline Oracles* to the fifth chapter of Mishnah *ʾAvot*.[106] Other systems of gradation were prevalent as well such as the popular threefold scheme, which emerges in many forms, both in sources from the Second Temple period and in rabbinic literature. Although the above triad listed the Temple Mount, others omitted it, such as the threesome embracing all countries-the

104 See, for example, Albeck, *Shishah*, 6:508; Guttmann, "Jerusalem," 269–70; Safrai, "The Sanctity," 364 (Heb.).

105 Ezek 5:5. The issue at hand is also related to the "navel of the Earth" paradigm, which is discussed further below in this study (pp. 51–55, and bibliographical references in n. 128). On the biblical conception, see G. Bettenzoli, *Geist der Heiligkeit: Traditionsgeschichtliche Untersuchung des QDS im Buch Ezechiel* (Florence: Istituto di linguistica e di lingue orientali, 1979) 105–51; M. Haran, *Temples and Temple-Service in Ancient Israel* (Oxford: Clarendon Press, 1978) 175–88. And in general, Smith, *To Take Place*, 47–73; Wilken, *The Land*, 11–14.

106 See J. J. Collins, *The Sibylline Oracles of Egyptian Judaism*, SBLDS 13 (Missoula, Mont.: Scholars Press, 1972) 26 and n. 28. Also *ʾAbot R. Nat.* text B 42–43 (Schechter, 116–19).

Land of Israel-Jerusalem or in another formula the Land of Israel-Jerusalem-the Temple. Fivefold and sixfold groupings abounded as well.[107]

A comparison of the names bestowed by the various sources upon the places associated with the degrees of holiness reveals, however, important differences. All documents attest to certain restrictions that applied to the populace beyond the limited space of the Temple. All sources exclude people with insufficient ritual purity from the vicinity of the sanctuary to prevent them from defiling the sacred. But Josephus, the Temple Scroll, and other sources of the Second Temple period refer to the precinct surrounding the Temple edifice as part of the Temple complex itself; it did not have a special name or a different status from other parts of the compound. When Josephus, for example, lists the names of the places that certain people were forbidden to enter, he asserts that people suffering from certain venereal diseases were banned from entering the entire city of Jerusalem, while menstruating women were only prohibited from entering the (inner courts of the) Temple.[108] He does not mention any intermediate space between Jerusalem and the Temple. This sharply contrasts the Mishnah, which deems it illicit for people with these two impurities from entering the Temple Mount. Thus, although the area might be physically the same, it registers in the mind of the authors rather distinctively. Josephus perceives it as the Temple enclosure, part and parcel of the Temple, while the Mishnah sees it as the "Temple Mount."

The transition from an external "innocent" area surrounding the Temple in Josephus's writings, which, important as it might be, had no name of its own or special *halakhot*, to a separate unit with a designated title, laws, and customs of its own in the Mishnah, reflects the turning point at which the Temple Mount came into being as an independent entity in the worldview of the rabbis. According to this analysis, the Mishnah's authors innovatively changed the name of the area and in doing so crafted a totally different conceptual view.

Finally, an interesting question involves the name of the space surrounding the Temple before the term "Temple Mount" was coined. Here too the answer may be retrieved from Second Temple sources. Handed down mainly in Greek, a variety of names labeled this area – *hieron*, *temenos*, *peribolos*, *aulē*; or simply *exōthen* – all common Graeco-Roman appellations for an area subordinated to

107 Threefold divisions: 3 Macc 2:9 (Hanhart, 45); *Sipre Deut.* 152 (Finkelstein, 206, lines 8–9). Sixfold divisions: *Tanḥ. Qedoshim* 10 (Buber, 78), as well as the printed version. Fivefold divisions are well represented in the sources cited above (n. 63) on the direction of prayer. Concerning symbolic numbers in Judaism and Christianity, see A. Yarbo-Collins, "Numerical Symbolism in Jewish and Early Christian Apocalyptic Literature," *ANRW* II 21.2 (1984) 1221–87.

108 *B. J.* 5:227 (Thackeray, 3:268–70). Josephus' terminology in describing the various components of the Temple deserves a separate discussion. See for now Y. Z. Eliav, "'A Mountain Without a Temple': The Temple Mount from the Destruction of the Second Temple Until the Middle of the Fifth Century – Reality and Idea" (2 vols.; Ph.D. diss., Hebrew Univ. in Jerusalem, 1999) 1.37–41 (Heb.).

a Temple at its center. Accordingly, Hebrew names that correspond to the same model come to mind: "he-ḥaṣer," translated as "the courtyard" and compatible with the Greek *aulē*; "ḥaṣar ha-mikdash" (the court of the Temple) may match the Greek *peribolos*; "ha-ʿazarah ha-ḥiṣonah," which is synonymous with the latter, may correlate with the Greek *heiron* and *temenos*; and finally "ha-ḥiṣonah" (the outer) may be the Hebrew counterpart of *exōthen*. Indeed the few Second Temple Hebrew texts that have survived, such as the Qumranic Temple Scroll, include such terminology in their Temple vocabulary.

I have argued that in traditions preserved by the sages, the earlier term that antedates the Temple Mount was many times simply the Temple. In other instances, if we were to extract the name "Temple Mount" from a rabbinic passage and replace it with the above Hebrew terms – "the outer enclosure," "Temple court," and others – then, according to the view advocated here, the formulations will be closer to the worldview of the Second Temple period.

To summarize this part of the study: The sources discussed thus far are neither of the same type nor uniform in their conclusions. Some articulate legal pronouncements and accordingly present their content in definite terms, while others stemming from the hermeneutical practice known as *midrash* preserve the dissonant yet vibrant atmosphere of disputing intellectuals. Several sources convey traditions about customs; others communicate memories; a third group depicts topographic and architectural details from the monumental to the diminutive, not to mention the purely fantastic. Other cases involve aggadic (i.e., non-legal) material, whether interpretations of difficult biblical verses or legends relating fictitious stories. The chronological spectrum of the material ranges quite broadly as well. Some date to the tannaitic period, others to the days of the *amoraim*, and some to as late as the medieval commentators.

Despite their generic diversity, I have tried to show that these texts partake in the same epistemological development, which may be discussed on both literary and conceptual grounds. From the perspective of textual criticism, the documents examined here exhibit a process by which their authors added a later designation – the Temple Mount – to early material. At times, these emendations are plain to see, with conspicuous differences distinguishing earlier versions lacking the Temple Mount from later versions including it. In other cases, however, the process has left only faint traces, with primitive readings concealed beneath more mature and elaborated formulations. In these instances considerable research is required to reveal the early phases of the literary process. Normally, this is carried out by meticulously tracking internal contradictions or literary inconsistencies created by the introduction of a later expression into an early text. At other times, it must be admitted, the early version may not be altogether recoverable, and one can only hypothesize about its existence.

But the essence of the phenomenon explicated in this study involves more than terminological developments. Philological changes are linked here to conceptual evolution. As mentioned before, by conceiving the name "Temple Mount," shaping it as a sacred space, and then projecting it backward to describe the earlier period, the sages redrew the bounds of Second Temple landscape. Consequently, they have ushered in a new infrastructure for their shared memory. The many passages in rabbinic literature that refer to the Temple Mount lend the impression that this spatial entity was a central component of Second Temple consciousness. But this impression is only ostensibly true. It was only part of the rabbis' perception of Second Temple times.

All in all, the evidence presented so far proposes that the expression "the Temple Mount" derives from the worldview of the sages of the Mishnah and the Talmud and thus reflects the exigencies of their own time. The above discussion sets to reveal this process and locate places where traces of the older conceptuality are preserved. The variety of the sources strengthens the demonstration.

It is worth reiterating that this phenomenon has to do with the term and the cluster of images and notions associated with it rather than the events described in the sources. That is, even if the comings and goings related in rabbinic literature as happening in Second Temple times actually occurred (just as they might be purely fiction), the sources need not also have preserved the vocabulary used by the people of that period to describe these events. The heart of the issue is whether rabbinic literature faithfully reflects the consciousness of previous eras. I have suggested answering this question in the negative.

Furthermore, this process of shifting imagery was by no means an all-encompassing reform. Obviously no guiding hand supervised the penetration of the phrase and image "Temple Mount" into traditions produced and transmitted by the rabbis about the Second Temple period. On the contrary, many rabbinic passages follow earlier paradigms, which preceded the imagery, symbolism, and language of the newly born Temple Mount and remain congruent with writings of Second Temple times. The tripartite hierarchy of holiness – the Land of Israel, Jerusalem, and the Temple – manifests one example. Lacking any awareness of the Temple Mount, this rabbinic gradation corresponds to early Second Temple expressions. A second good example of Second Temple phraseology may be found in a tannaitic pericope describing "R. Yoḥanan b. Zakkai, who would sit in the shadow of the Temple and expound [the Torah] all day long."[109] In keeping with the ascent of the Temple Mount in the rabbinic world view, one would expect to find this feature rather than the Temple as the location of R. Yoḥanan's teaching activity, in line with traditions such as the one about the study-house on the Temple Mount (n. 47). R. Yoḥanan's case, however,

109 *B.Pesaḥ.* 26a; *y.ʿAbod. Zar.* 3:13 (43b).

preserves an early formula that reflects the essence of Second Temple experience and vocabulary, fitting the picture of teaching that took place near the Temple that is conveyed by other sources as well, such as the Gospels and the book of Acts.[110] None of these works ever mentions the Temple Mount.

Conceptualizing the Mount

So far this study has offered a new framework for understanding the notions and images associated with the Temple Mount in rabbinic literature. According to this thesis the "Temple Mount" falls short of representing the worldview of Second Temple Judaism. Rather it was a mostly unused phrase (although with ancient biblical roots that surfaced sporadically[111]) that the *tannaim*, followed by the *amoraim*, applied to the old landscape of the ruined Temple area, thus reshaping how it was remembered and crafting for it a fresh perception.

Such inferences help us come to better terms with the Second Temple period and correct some widely held misinterpretations of this era. But they are even more important for what they can teach us about the world of post-70 rabbis. Even if the Temple Mount image was not a genuine Second Temple feature, it is of great interest for the story of subsequent generations, especially the religious and ideological facets of their narrative(s). The following discussion elaborates on this issue.

At the outset it is imperative to acknowledge that, like other writers and thinkers throughout the centuries – Jewish, pagan, and Christian – rabbinic sages employed mountain imagery and symbolism in their texts. Thus, for example, rabbinic literature occasionally portrays personae of considerable prestige and status, such as biblical patriarchs or even certain sages, through the use of mountain metaphors.[112]

Furthermore, as in earlier literary circles, the sages well recognized the topography of Jerusalem as a city nestling among hills, and frequently alluded to this image in their prose. When a rabbinic commentator states, "The Temple is called possession," supporting his assertion with a verse from Psalms (78:54), "The mountain (*har*) His right hand had acquired," he reveals his regard for the place as a *har*.[113] The same outlook fuels another *midrash* on the verse, "Bless the Lord your God for the good land" (Deut 8:10), which claims that "the good" refers to Jerusalem and then associates with this clearly non literal interpreta-

110 See Yaron Z. Eliav, "The Tomb of James Brother of Jesus as *Locus Memoriae*," *HTR* 97 (2004) 34–36 esp. n. 7.

111 On the history of the term prior to the rabbis, see Eliav, "The Temple Mount."

112 For example, *Sipre Deut.* 353 (Finkelstein, 414 line 2–3). For a generous collection of rabbinic sources using mountain images, see M. D. Gross, *'Otsar ha-'agadah ha-talmudit veha-midrashit* (3 vols.; Jerusalem: Mosad ha-rav Kuk, 1961) 1:296–99 (Heb.).

113 *Mek. Širata* 9 (Horovitz and Rabin, 148–49).

tion the verse "this good mountain" (*har*) (Deut 3:25).[114] The very possibility of performing such exegetical maneuvers points to the position of Jerusalem in the rabbinic mind as situated in a hilly setting. A passage in the Targum (Aramaic translation of the Bible) attributed to Jonathan on the same verse in Deuteronomy expresses the same notion when it construes it as, "That good hill on which is built the city of Jerusalem,"[115] as does a phrase of *Sifre* to Deuteronomy, which puts it simply, "Everyone called it a *har*."[116] Whether such scenery came to the rabbis from biblical verses that depict this landscape or from firsthand encounter is of no concern to this study.

But it is important to note that such literary formulations relate to the mountain as a neutral topographical elevation with neither a special name nor a particular location. In this regard they follow Second Temple representations, especially Josephus's, who spoke of Jerusalem and the Temple as being situated on a hill, mostly without endowing this physical fact with any conceptual significance.[117] These and similar examples demonstrate an acquaintance with the topography of Jerusalem and its surroundings but fall short of alluding to an entity called "Temple Mount" or any of the ideas associated with this image. This, however, is not the case in all sources.

The Individualization of the Temple Mount

Many rabbinic texts present the Temple Mount as an independent element, distinguished from both the Temple and the city of Jerusalem. To be sure, the Temple towers in the background – as part of the name (the *Temple* Mount; *har ha-bayit*) as well as the ultimate goal in some accounts and the decisive purpose in others. For example, in the *halakhot* laying out the itinerary for the bringing of first fruits or the route for transporting the pure water for burning the red heifer (see p. 11 above), the mountain rests beside the Temple, the latter being both the final destination and the objective behind the whole venture.

But even in cases of this sort, the two are clearly distinguished, with the mountain presented as an area adjacent to but separate from the Temple. This is evident, for example, in the *halakhot* prescribing the obligation of pilgrims to "appear" at the Temple Mount rather than at the Temple itself (see pp. 32–33, nn. 83–84). In this source the independence of the Temple Mount strikes a clear tone since the Temple can no longer be found, so the Temple Mount cannot be subordinate to it. Other sources adhere to similar patterns. Consider, for example, the *halakhah* regulating the procedures for treating misplaced coins found

114 *Mek. Pišḥa* 16 (Horovitz and Rabin, 60 line 19).

115 *Tg. Ps.-J.* Deut. 3:25 (Clarke, 213).

116 *Sipre Deut.* 28 (Finkelstein, 44).

117 Eliav, "The Temple Mount," 30–35.

on the Temple Mount (n. 34). The measures in that passage pertain to both Jerusalem and the Temple Mount with no sign of the Temple. Clearly the Temple provides the immediate context, since the incident adduced by the *halakhah* – bringing Second Tithe money to Jerusalem (and then losing it) – would not have come about in the first place but for the decree that this offering had to be eaten in the vicinity of the Temple. Nevertheless, although implied by the context, the Temple lacks any concrete role in the literary piece itself. The passage endows the space called "Temple Mount" with a life of its own and provides it with its own *halakhot*, without any explicit relation to the Temple.

The same phenomenon can also be discerned in the string of stories about Rabban Gamaliel that are said to take place on the Temple Mount and do not disclose any sort of connection with the Temple (p. 12–13, nn. 42–43) or in the traditions about a synagogue and a study-house located there (n. 47). In the same vein are *halakhot* such as the prohibition against planting trees in that enclosure (n. 39) or the ruling against using stones for construction on the Temple Mount if they had been prepared for another purpose (n. 40). All of the above sources establish the independence of the Temple Mount; they maintain no direct connection with the Temple, nor do they make any explicit reference to its existence.

This stand-alone status of the Temple Mount epitomizes an essential difference between rabbinic consciousness and that of Second Temple times. Not only are there no hints of the name "Temple Mount" in the period when the Temple was up and running, but the sources from that time always present the various components of the sanctuary as subordinate to the Temple itself. As I showed in an extended discussion of Second Temple sources, Jerusalem and the Temple monopolized the entire conceptual spectrum, leaving no room for anything else between them.[118] Conspicuously, rabbinic material strikes a rather different tone – Jerusalem and the Temple occasionally disappear altogether and the Temple Mount functions independently; at other times the texts link the Temple Mount directly to the city of Jerusalem, with the Temple being practically ignored. Such trends could not be dismissed as a mere literary nuance; revealed here is a change in perception, in the way people remembered the landscape of their sacred places.

Replacing the Temple

The rabbinic notion of the Temple Mount involves an intimate and rather complex relationship with the Temple. In many rabbinic texts, the Mount functions not just as a plot of land that happens to be next to the Temple and inferior

118 Eliav, "The Temple Mount," 30–35.

to it in status but as an independent structure that occasionally even supersedes the Temple. As shown above (pp. 20–23), at some point, for example, the rabbis rephrased the ancient *halakhah* that had directed all prayer toward the Temple and the Holy of Holies. Instead of the Temple, the Mount became the focus; the Palestinian Talmud termed it "the mount to which all mouths pray."

A similar amendment affected the rules prescribing the proper "reverence for the Temple," which over time were modified into "reverence for the Temple Mount" (see pp. 30 above). Dissociating the procedures of reverence from the Temple, this source treats the Mount as if it were a sacred site for its own sake. The same views seem to be at work when the rabbis apply the ruling "utensils that were originally made for [the use of] an ordinary person cannot be converted to [the usage of] the High" to the above-mentioned decree, "stones and beams which one originally quarried [and hewed] for a synagogue should not be used for building on the Temple Mount" (n. 40). Normally one would read "the High" (*gavohah*) as the common, almost technical term for the Temple, yet here, surprisingly and very much unnoticed, the *halakhah* directs it at the Temple Mount instead. Striking the same chord, the rabbis denounced a person negligent about pilgrimage rites as sinning against the Temple Mount rather than, as seems expected, the Temple itself (n. 85).

Along the same lines, other anomalous *halakhot* also fall into place. One such example involves the proscription, rendered by *Midrash Tanḥuma-Yelamdenu*, forbidding priests to leave the Temple Mount dressed in their priestly attire and inadvertently allowing them to wear their hallowed vestments while in the Temple compound.[119] No early source on the distribution of the sacrosanct wardrobe and the various limitations associated with it contains a *halakhah* of this sort, as they all focus on the Temple itself. Thus, for example, in relation to the biblical laws of *Kilayim* (the prohibitions against mixing certain "different kinds"), the Tosefta stipulates: "garments of the high priest – he who goes out [while dressed] in them to the provinces (i.e., outside the Temple) is liable, but [he who wears them] in the Temple, whether [he does so] to serve or not to serve is exempt [from liability] because they (the garments) are for the Temple service."[120] And the same holds true in the Yerushalmi's assertion that "The (consent) for temporary wearing of *Kilayim* (does not take form) in the Temple."[121] Indeed, given the wide range of "secular" activities that took place in the large Temple enclosure, it does not make sense to allow holy garments to come in contact with the mundane nature of the area. Apparently, as in all other cases discussed above, here too the original version, although not preserved in

119 *Tanḥ. Ḥuqqat* 40 (Buber, 124); *Num. Rab.* 19:19.

120 *T.Kil.* 5:27 (Lieberman, 226); trans. I. Mandelbaum in Neusner and Sarason, *The Tosefta*, 1:274.

121 *Y.Kil.* 9:2 (32a).

any of our sources, forbade priests to leave the Temple in these clothes. In the rephrasing of these guidelines the Temple Mount replaces the Temple, thus raising it to the status of the Temple and more importantly replacing the Temple in the conceptual mapping of Jerusalem's sacred grounds.

Aggadic sources express this same phenomenon when their authors replace the Temple with the Temple Mount. Legends produced by the sages introduce this change quite decisively. The tale cited above (n. 52) about the 300 sacrifices brought by Baba b. Buta provides a typical example of this process, in which the rabbis shifted the destination of the animals from the "inner Temple court" to the "Temple Mount."

An equally emblematic example occurs in a story in *Genesis Rabbah* about a certain Joseph Meshitha, "when enemies desired to enter the Temple Mount, they said: 'Let one of them (the Jews) enter first'... So he went in and took out a golden lamp (the candelabrum?)."[122] The plot in this short fable centers on the verbs "entered" and "left," which are used no fewer than five times in this short passage. The story explicitly names the place being entered as the Temple Mount, yet when Yosi leaves the site, he carries out an object that clearly belongs to the Temple – the candelabrum. Even if the story assumes the basic knowledge about the topography that locates the Temple on the Temple Mount, one cannot ignore the fact that the storyline fails to provide this detail, and thus the literal meaning of the tale situates the holy vessels on the Temple Mount itself. The Temple Mount had taken the place of the Temple in the perception of the storyteller who formulated this version of the legend.

The process by which the Temple Mount supersedes the Temple extends beyond halakhic and aggadic passages to excerpts pertaining to more spiritual issues as well. The passage cited above (pp. 22) in which "*tel*" (hill) replaces the Temple as the place "toward which all mouths pray" clearly expresses such conceptual changes in the status of the Temple Mount. It is in this light that one must understand the better-known sources expounding the notion that God's divine presence (*shekhinah*) never left the locality of the Temple, even after its destruction. The amoraic sages disputed over this issue: Samuel b. Naḥman opined that "until the destruction of the Temple the Divine Presence resided in the shrine (*Heikhal*)... and from the time of the destruction of the Temple he (the Lord) removed his Divine Presence to the heavens." R. Eleazar b. Pedat, however, argued, "Whether [the Temple is] destroyed or not destroyed, the Divine Presence does not move from its place." In support of his position he cited the verse, "I raise my voice unto the Lord, and he answers me from

122 *Gen. Rab.* 65:22 (Theodor and Albeck, 741–42); trans. H. Freedman and M. Simon, *Midrash Rabbah: Genesis* (13 vols.; London: Soncino Press, 1939³) 2:599. An alternative version for this legend in *Tanḥ. Toldot* 10 (Buber, 132) reads "Temple" instead of "Temple Mount." But in this case it seems like an erroneous variant. See Buber's comment in n. 68.

his holy mountain" (Ps 3:5).[123] The rabbinic teaching, "even when destroyed it retains its holiness," comports well with this view, as does the well-known saying of R. Aḥa: "The Divine Presence shall never move from the western wall of the Temple."[124]

As many modern scholars have correctly acknowledged, these sources were not referring to the present-day "Western Wall," which was not a direct component of the Temple building but belonged to the outside walls encircling the Temple Mount compound.[125] The sages were concerned with the site of the Temple itself, maintaining that the site's holiness did not depend on the existence of the Temple. It is fair to say that such ideas laid the foundation for the rise of the Temple Mount image as a sacred space in post–Second Temple Judaism.

Even ha-Shetiyah

Another example demonstrating the configuration of the Temple Mount as an independent holy place has to do with the increased attention given by the rabbis to the so-called "Foundation Stone." Rabbinic literature first mentions this feature in a segment in Mishnah *Yoma* that describes the high priest entering the Holy of Holies:

> After the Ark was taken away, a stone was there from the days of the early Prophets, called 'foundation' (*shetiyah*), three fingers above the ground, and upon it he (the high priest) would put [the incense fire pan].[126]

The Tosefta version of the tradition about the stone is nearly verbatim, but its conclusion includes a passage absent from the Mishnah: R. Yose interprets the name "foundation stone," claiming that "from it the world was founded."[127] Many scholars identify R. Yose's statement as a manifestation of the ancient idea of

123 The entire series of interpretations presented here was preserved in *Tanḥ. Shemot* 10 (Buber, 5–6); *Exod. Rab.* 2:2 (Shinan, 104–5). See also *Midr. Pss.* 11:3 (Buber, 98–99). For a detailed discussion of the various opinions about the *Shekhina* and its location that were prevalent in antiquity, see Urbach, *The Sages*, 37–65.

124 The former was preserved in the so-called Rome MS (Cod. Vat. Ebr. 34) of the *Tanḥuma*, a copy of which was used by Buber, as well as in *Exodus Rabbah*. Buber preferred it to the other textual witnesses (which read "mountain" – *har* – instead of "destroyed"/*ḥarev*), asserting, "it is the correct version"; see his comments on the Tanḥuma (ibid.), n. 48. R. Aḥa's statement appears in all the above-listed sources (n. 123) as well as in *Cant. Rab.* 2:9.

125 For example, M. Ben-Dov, "From the Temple to the Western Wall," in M. Ben-Dov et al., eds., *The Western Wall* (New York: Adama Books, 1983) 26–28; G. Ben-Ami Tzarfati, "The Western Wall," *Leshonenu la-'Am* 45 (1992) 53–54 (Heb.).

126 *M. Yoma* 5:2.

127 *T. Yoma* (*Qippurim*) 2:14 (Lieberman, 238).

the Omphalos – the "navel of the earth." Meant to elevate a certain space or site and glorify its centrality, this conceptual paradigm can be found, in different forms, in ancient Semitic and Greek cultures. As such, it was also adopted by some Second Temple Jewish writers, such as the author of the *Letter of Aristeas*, Josephus, and perhaps even earlier in the book of Ezekiel.[128]

Indeed, considerable similarities link the two notions – the navel of the earth and the foundation stone. Focusing, however, on this comparative aspect of R. Yose's interpretation has apparently inhibited scholars from appreciating its uniqueness and from distinguishing between his remark and other Jewish models of spatial centrality that preceded it. Unlike R. Yose, the *Letter of Aristeas* and Josephus unequivocally associate the Omphalos with the man-made city of Jerusalem and the Temple, describing them as being located at the earth's center. These Second Temple authors articulated their ideas within the framework of the ancient Near Eastern/Hellenistic discourse about the Omphalos, either by defining a particular element in Jerusalem as being the Omphalos or by locating the city itself at the center of the earth. R. Yose, on the other hand, underscores the natural quality of a stone whose presence at the site predates the establishment of any mundane structures. He crafted a shrewd explication playing on the ancient name of the stone by taking the noun *shetiyah* (foundation) and changing it into the verb *shatat* (to found or create). Neither "navel" nor "center" are mentioned, nor is there explicit reference to the city and the Temple; only that the stone sits where the world was created.

Admittedly, in the ancient world all these expressions belonged to the same family of ideas, and many defined the Omphalos as both the center of the world and the place of the creation. Nevertheless, one cannot ignore the fact that R. Yose created a different terminological and ideological gamut. To stretch this argument a bit, the perception of the Temple as Omphalos and as center of the earth was widespread in Jewish circles, and R. Yose was therefore probably familiar with it. Why, then, did he decide not to name the concept explicitly by either

128 See V. Aptowitzer, "Les éléments juifs dans la légende du Golgotha," *REJ* 79 (1924) 145–62; J. Jeremias, "Golgotha und der heilige Felsen," *Angelos* 2 (1926) 91–98; S. Terrien, "The Omphalos Myth and Hebrew Religion," *VT* 20 (1970) 315–38; F. Böhl, "Über das Verhältnis von Shetija-Stein und Nabel der Welt in der Kosmogonie der Rabbinen," *ZDMG* 124 (1974) 253–70; L. Ginzberg, *The Legends of the Jews* (7 vols.; New York: Simon and Schuster, 1953²) 5:14–15; S. Lieberman, *Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary, 1950; repr. 1994) 175, n. 103; J. D. Levenson, *Sinai and Zion: An Entry into the Jewish Bible* (San Francisco: Harper and Row, 1985) 117–19; Safrai, "The Sanctity," 349 (Heb.). It seems to me that caution should be exercised in attributing this notion to every source that hints at images of centrality. For example, when Hecataeus of Abdera, in a fragment preserved by Josephus, relates that the Temple enclosure was "in the very center of the city" (Josephus, *C.Ap.* 198 [Thackeray, 1:242]) it does not mean that he is expressing the Omphalos idea.

using the terms "Omphalos" or "naval" or by referring to one of the elements that had been tied to it in the past (Jerusalem and the Temple)? Sometimes omissions can be as significant as inclusions.

Although the silence of the source does not provide firm ground to reconstruct R. Yose's stance, his interpretation quite evidently emphasizes a new element: the foundation stone, which does not appear in any of the previous works. Furthermore, the two presentations of the rock, in the Mishnah and in R. Yose's formulation in the Tosefta, are essentially different.[129] The Mishnah portrays it as an ancient rock whose name simply derives from the fact that it served as the foundation on which the Ark of the Covenant stood in the Holy of Holies until right before the destruction of the First Temple. Although such a formulation grants the stone a certain significance – after all, the Ark was placed on it – it nevertheless measures the stone's importance within the framework of the Temple and the hierarchy of its articles. In contrast, R. Yose's idea removes the stone from its Temple context and grants it a value in and of itself, calibrating it in relation to the entire universe. To him, this is the most important stone in the world.

This transition from the "Temple" stone of the mishnaic tradition and the Temple-city domination of the Omphalos image in Second Temple writings, to the "cosmic" stone in Rabbi Yose's presentation develops along the same conceptual contours discussed above. The Temple's territory, and in this case a natural, physical element that occupied the area – a stone – replaces the actual edifice of the Temple and is endowed with its own value.

Later developments in the image of the stone show that its separation from its original Temple environment allowed it a life of its own, sort of an autonomous character. Some later rabbinic compositions still preserve the memory of its function within the layout of the Temple or as part of the Day of Atonement ceremonies; other instances, however, completely detach the stone from its past, furnish it with new substance, and link it to new contexts that at times even somewhat contradict the way it was originally perceived.[130] The first reference to the foundation stone as the "navel of the earth" appears only in late rabbinic sources such as the *Tanḥuma* which also bestows this image upon other constituents of their world (such as the city of Tiberias and the institution of the Sanhedrin).[131] Over time, these two images were concocted into one

129 Noticed by Ginzberg, *The Legends*, 5.15. Cf. Albeck, *Shishah*, 2:469.

130 For example: *Lev. Rab.* 20:4 (Margulies, 453–55) = *Pesiq. Rab. Kah.* 26:4 (Mandelbaum, 391); the stone obliterated with the destruction of the Temple: *y. Pesaḥ.* 4:1 (30d) = *y. Taʿan* 1:6 (64c); *Tanḥ. Qedoshim* 10 (Buber, 78); *Num. Rab.* 12:4; *Can. Rab.* 3:10.

131 As far as I know, this association was first made by the *Tanḥuma* (*Qedoshim* 10), and from then on different forms of such amalgamation took root in various sources. See A. Jellinek, *Bet ha-Midrash* (facsimile ed.; Jerusalem, 1967) 5:63; *Midr. Pss.* 91:7 (Buber, 400); *Pirqe R. El.* 35.

recipe – the foundation stone that is the navel of the earth. The independence of the stone reached its apex among Christians during the Byzantine era. The essence of the stone and the scope of ideas and imagery associated with it remained similar to its Jewish counterpart, but its actual spot was relocated to Golgotha, in the Church of the Holy Sepulcher. Early Muslim traditions embraced these notions as well but restored the stone to its original location.[132]

Other traditions reflect similar conceptual dynamics, focusing on the space on which the Temple had stood rather than the Temple itself and picturing it as a mountain, as well as shifting images and perceptions originally linked with the Temple and re-associating them with the Temple Mount. For example, the notion of Mount Moriah – identified as the site of the *ʿaqedah* (Isaac's binding) and considered to be the place where the Temple had been built – was well known during the Second Temple period and even earlier. Yet it was only Rabban Simeon b. Gamaliel, when discussing the dust from which Adam was created, who presented Mount Moriah as the source of this soil and described it as a place of "worship" and "atonement," two terms that had generally been reserved for the Temple itself.[133] The traces of a legend that Adam was buried under the foundation stone (see in the previous note) should be seen in the same light. Similar to the creation of the universe in R. Yose's formulation about the foundation stone, both the commencement and the conclusion of Adam's life are thus placed on Mount Moriah.

Another source, a tradition cited in the name of R. Simeon b. Yoḥai, recounts the process by which God elected the people of Israel: "The Holy One, blessed be He, considered all mountains (*harim*) and found no mountain on which the divine presence (*Shekhinah*) should dwell other than Mount Moriah. The Holy One, blessed be He, considered all towns and found no city in which the Temple should be built other than Jerusalem."[134] Although this passage enumerates

132 See Eliav, "The Temple Mount," 48–53 (Heb.); O. Livne-Kafri, "Jerusalem 'The Navel of the World' in Islamic Tradition," *Cathedra* 69 (1993) 79–105 (Heb.); O. Livne-Kafri, "The Moslim Traditions 'In Praise of Jerusalem' ('Fadai'l AL-Quds'): Diversity and Complexity," *AION* 58 (1998) 165–92; A. Elad, *Medieval Jerusalem and Islamic Worship: Holy Places, Ceremonies, Pilgrimage,* Islamic History and Civilization 8 (Leiden: Brill, 1995) 51–130.

133 *Midr. ha-Gadol Gen.* 2:7 (Margulies, 78). Indeed, parallel traditions (which are listed by Margulies) associate these characteristics with the sanctuary itself, specifically mentioning the ashes (written in Hebrew with similar consonants as the word dust – *ʿein*/*ʾaleph-peih-reish*) on the altar and the Temple. Concerning *midrashim* about Adam's having been created from the dust/ashes of the Temple and the cultural context in which they were formulated, see I. M. Gafni, "Pre-Histories of Jerusalem in Hellenistic, Jewish and Christian Literature," *JSP* 1 (1987) 5–22, esp. p. 11. Regarding the Temple as a place of atonement, see Safrai, "The Sanctity," 356–57.

134 *Lev. Rab.* 13:2 (Margulies, 272–73); *Pes. Rab.* addendum 3 (Friedmann [*ʾish-shalom*], 198–99). Other versions, which do not include the pericope about the Temple Mount, are listed by Margulies. More traditions of R. Simeon b. Yoḥai about Mount Moriah are listed and discussed in M. Beer, "Shimʿon Bar Yoḥai and Jerusalem," in Oppenheimer et al., eds., *Jerusalem*, 361–75 (Heb.).

all three elements – Mount Moriah, Jerusalem, and the Temple (and later on the Land of Israel as well) – the two key factors that both frame the segment and lie at its nucleus include Mount Moriah and Jerusalem. It appears that this passage too endorses the new outlook that was taking shape as the Temple Mount gained import.

Practicing (on) the Mount – Customs and Liturgy

This discussion has so far focused on the consciousness of the Temple Mount and the ideas and symbolism that derived from it. The place of the Mount in post-Second Temple Jewish experience, however, was not limited to such abstract terms. It had more practical dimensions as well, which were expressed in the era's liturgy.

A liturgical system spells out many intangible, and at times elusive, concepts for day-to-day life by channeling them into rituals, prayers, and customs. Characterized by its decentralizing tendencies, Jews conducted their post-Second Temple liturgy within the dispersed localities of Jewish communities. Its prime institution was the synagogue, which left little room for the Temple Mount. As discussed above, the Mount did play an important part in the rabbinic mind, historical memory, and conceptual landscape. Along the same lines, the direction of Jewish prayer as formulated by the rabbis centered on the Temple Mount, which obviously inscribed this site in the minds and hearts of the people. Beyond that, however, almost no records survived of any prayers referring to the Mount or ceremonies connected to it that were carried out in the synagogue. The reasons for this absence apparently derive from the very thesis presented in this study, namely that the Temple Mount achieved a significant life of its own only when it was bereft of its place of worship, the Temple. In the realm of day-to-day liturgy, the synagogue essentially filled the vacuum that was created by the destruction,[135] leaving no need for a "Mount."

Predictably, then, the liturgy that did develop around the Temple Mount was destined principally for those occasions when Jews engaged directly with the absence of their Temple – that is to say, on visits to the site of the ruined Temple in Jerusalem. As described above (pp. 7–8), during the first centuries after the destruction a steady stream of Jews regularly frequented the demolished compound of the Temple, interrupted only rarely by occasional local bans. These visitors were not mere tourists in the modern sense of the word. As in ancient times, these excursions took on a religious dimension that was accompanied by customs, prayers, and liturgical rituals.

Various sources discussed above (p. 7–9), unequivocally refer to the practice of a Jewish liturgy at the place of the ruined Temple. The anonymous

135 Discussed at length in Levine, *The Ancient Synagogue*; Cohen, "The Temple."

pilgrim from Bordeaux describes a ceremony that the Jews observed every year at the site next to what he calls the "Pierced Stone," in which they anointed the stone with oil. This clearly portrays a ritual practice, although its exact nature remains uncertain.[136] Four generations later, the monk Barsauma similarly reports that the Jews came to celebrate the Feast of Tabernacles on the grounds of the ruined Temple. Jerome's account of the gathering of Jews on the Ninth of Av (the fast commemorating the destruction of both the First and Second Temples) to mourn the destruction also testifies to the existence of a Jewish ritual at the site.

Jewish sources also contain explicit liturgical information. Elaborating on the motivation to travel to Jerusalem, the rabbis speak of the desire either to fulfill the biblical requirement of pilgrimage or simply to come and pray. Additionally, they detail some of the mourning customs that were observed by the visitors, mainly the tearing of clothing but perhaps even fasting.[137] Various scholars have suggested that for some time after the destruction Jews continued to perform various Temple rites, such as offering sacrifices and bringing the Second Tithe and eating it within Jerusalem. The majority of scholars, however, have correctly rejected these conjectures.[138]

The sources, then, do indicate certain Jewish liturgical activities on the Temple Mount, but the picture remains incomplete. Aside from the basic fact that Jews indeed attended the Temple Mount, performed some ceremonies there, and observed the *halakhot* of mourning (which seems to go without saying), we know little about what transpired there. What sort of gatherings did they have? How often did they occur? What was said there? Were prayers uttered? Did other customs aside from the act of mourning for the destruction of

136 Scholars have generally tended to bring the traveler's testimony together with that of Jerome, considering the former also to speak of the Ninth of Av mourning. But, as Irshai correctly noted, "this has no real support from the text"; see Irshai, "Constantine," 173–74 (Heb.). Those who held this view are listed in n. 145. The fact that the traveler describes the rending of clothes and crying cannot be considered evidence since, as the sources discussed here show, Jews were required, at least by rabbinic *halakha*, to rend their garments whenever they entered Jerusalem. As for the anointing of the stone with oil, Ir-Shai suggests seeing it as an analogy to Jacob's act in Beth-El (147). See also E. W. Cohn, "Second Thoughts about the Perforated Stone on the Haram of Jerusalem," *PEQ* 114 (1982) 144–45. Cohn speculates that this was an act forced upon the Jews by the Christian authorities. The thesis of the current study suggests that the ceremony should be connected with the formulations about the foundation stone discussed above (pp. 51–55) and thus seen as a liturgical application of that image. This too, however, is only a hypothesis. Donner's position that the stone in the traveler's description must have been outside the Temple Mount altogether since the Jews could not have prayed on the site of the Temple is an obvious anachronism; see H. Donner, "Der Felsen und der Tempel," *ZDPV* 93 (1977) 8.

137 The main source for this is the *baraita* in *y.Moʿed Qat.* 3:7 (83b); *b.Moʿed Qat.* 26a; *Minor Tractates Semaḥot* 9:19 (Higger, 165–67). For a detailed survey and discussion of all sources pertaining to this issue, see Safrai, "Pilgrimage," 382–85 (Heb.).

138 Safrai, "Pilgrimage," 376–81 (Heb.).

the Temple develop on the site as a result of these visits? The answers to these questions together with many of the liturgical details are wrapped in mystery.

I contend that my thesis at least partially can augment the information about the liturgy performed on the Temple Mount after the destruction of the Temple. If we accept the line of reasoning that rabbinical sources about the Temple Mount were reformulated mostly after the destruction of the Temple, then perhaps some of the liturgical information in these documents (which the rabbis present as relating to the days of the Temple) also belongs to this post Second Temple period. To be sure, this kind of proposition is by no means flawless. Many of the details in these texts may very well be authentically anchored in Second Temple times, with the sages paraphrasing the wording and reshaping the picture of the past in order to integrate the element that had become dominant at their time, namely the Temple Mount. It is highly unlikely, for example, that the *halakhah* prohibiting priests from leaving the Temple Mount in their priestly robes (n. 53) could be recording actual regulations from the time after the destruction of the Temple, even if reworded by the *tannaim* and the *amoraim*. After all, as far as we know, there were no priests entering the Temple Mount in ceremonial attire once the Temple had been destroyed. Apparently in this case the only contribution of the rabbinic "designers" was to introduce "the Temple Mount" into the *halakhah*, while its content remained that of the Second Temple period (or what the rabbis thought should have been the practice at that time).

Yet this does not mean that all the details in all the sources pertain to the Second Temple period. If the Temple Mount could be incorporated into the sages' retrospective picture of the past, then it is entirely possible that they also introduced other elements from the post-70 era into these traditions. The *halakhah* banning the planting of trees on the Temple Mount (cited above, n. 39) offers an interesting example. On the one hand, it closely resembles a different *halakhah* prescribing that "Trees should not be planted" in Jerusalem, and both directives are reminiscent of the testimony of Hecataeus of Abdera, preserved by Josephus, that Jerusalem lacked sacred groves around the Jewish Temple.[139] On the other hand, sources from the Roman-Byzantine period attest that at the time when the Herodian Temple enclosure lay in ruins, neglected by the municipal authorities, the area was covered with agricultural plots and provided a haven for all sorts of peripheral groups, visitors, and pilgrims.[140] This is a plausible background for a renewed enactment of the ancient *halakhah* forbidding the planting of trees in the Temple area and directing it at the new reality that took shape on the Temple Mount.

139 On the ban against planting trees in Jerusalem, see *t.Neg.* 6:2 (Zuckermandel, 625); *'Abot R. Nat.* A 35 (Schechter, 104); *b.B.Qam.* 82b; the fragment from Hecataeus is in Josephus *C.Ap.* 199 (Thackeray, 1:244).

140 See, for example, Eliav, "The Tomb of James."

Thus it is not always easy to distinguish between simple paraphrasing of ancient material and incorporation of new substance, whether factual or fictional. Accordingly, determining whether the practical information in halakhic passages goes back to the times of the Temple or rather reflects the mores of the post-Second Temple era proves to be a grueling and at times sterile task. Every text must be carefully examined for its particular content, and even then the answer will not always be unambiguous.

Nevertheless, some rabbinic sources that mention the Temple Mount contain explicit evidence that the customs they render were observed, or at least were meant to be observed, in the period following the destruction of the Temple. Typical examples are the *halakhot* prescribing the proper reverence for the Temple Mount (discussed above, pp. 26–32). The *Sifra* cites these rules to illustrate the dictum that "reverence for the Temple is for ever"; the context indicates that "forever" (*leʿolam*) is meant to imply "even when the Temple is not in existence."[141] The same conclusion can be drawn from the closing line of the passage in *Deuteronomy Rabbah* (quoted on p.29, n. 77), which states, "And you must not say that since the Temple has been destroyed he treats it (the Temple) in an unseemly way, but [rather the law is the same] if it is standing or destroyed."

Such an understanding places this set of laws in the realm of the post Second Temple period as a series of regulations whose purpose was to create a norm of respectful behavior at the site of the ruined Temple: it was illicit to enter the area with shoes on, with one's walking stick, with one's traveling bag and money belt; one must clean the dust off his feet before entering; and it is forbidden to spit there or to use it as a shortcut. Evidence that these rulings were seen as potentially in effect, not to say actually carried out, in the period of the Mishnah and the Talmud can be found in the amoraic tradition cited above (n. 25), where the fourth-century scholar R. Pinḥas attests that he saw sages taking off their sandals and leaving them at the entrance to the Temple Mount.

The ban against using the Temple Mount as a shortcut concurs with my conclusions regarding the location of the site within the urban layout of the Roman colony Aelia Capitolina.[142] As argued there, the grounds of the Temple Mount remained outside the colony's municipal borders. Over time, as the population increased and the town expanded along its southern and northern sides, cutting across the Temple Mount would have considerably reduced the walking distance for anyone who traversed the city from south to the north or vice versa.

Another post-Temple habit may be reverberating in the legend about Gabiah, who persuaded Alexander the Great to take off his shoes before entering the

141 Already understood in this way by Safrai, "Pilgrimage," 385 (Heb).

142 Y. Z. Eliav, "The Urban Layout of Aelia Capitolina: A New View from the Perspective of the Temple Mount," in Peter Schäfer, ed., *The Bar Kokhba War Reconsidered: New Perspectives on the Second Jewish Revolt Against Rome*, TSAJ 100 (Tübingen: Mohr Siebeck, 2003) 241–77.

Temple Mount (pp. 15–16, n. 54). The story mentions a certain type of footwear, *empilia* (felt shoes), that Alexander wore in place of the shoes he had taken off. In light of the above it is worth considering, even without decisive evidence, whether this detail registers an actual custom practiced by the rabbis.

It is possible that an artistic source also displays post-70 awareness of the laws prescribing the proper reverence for the Temple Mount. Two panels in a recently excavated mosaic in a Sepphoris synagogue portray scenes associated with the binding of Isaac. One of the panels, although not well preserved, clearly depicts a ram tied to a tree, and two pairs of shoes, one large and one small, bunched underneath that tree. Weiss and Netzer, the archaeologists who excavated and studied the mosaic, identify the shoes as belonging to Abraham and Isaac.[143] They interpret this artistic representation of the footwear, which has no parallel in the iconography of the binding of Isaac, in light of the general assertion that "any contact with a higher power necessitates the removal of shoes." Their evidence includes the biblical accounts of Moses and Joshua taking off their footwear at sacred sites all the way up to what was, and still is, conventional in Islam. As they see it, views such as those expressed in *Midrash Genesis Rabbah* that Abraham "saw a cloud enveloping the mountain" (referring to what came to be known as Mount Moriah) required the removal of one's shoes in this case as well.

It seems to me, however, that the conclusions of the present study allow for a slightly different reading of the mosaic. As mentioned, the rise in the status of the Temple Mount in the Roman-Byzantine period generated intense preoccupation with the biblical associations of the site. A central piece in this endeavor was the story of the binding of Isaac (see above, pp. 54). Coinciding with this literary disposition, everyday visitors to the site of the ruined Temple adapted to removing their shoes before entering the enclosure. Originating before the destruction only within the Temple itself, this custom was transferred after 70, as described above (pp. 30), to the Temple Mount. The collections of shoes awaiting their owners' return "under the *'agof*" (the doorway) or in other corners outside the Temple Mount created a visual effect that was very likely etched into the popular memory, as in the case of R. Pinḥas described above. It is therefore quite possible that the mosaic of the binding of Isaac reflects this actual practice, and not only the symbolism stemming from the literary sphere, although admittedly the two are closely related.

The sources about reverence procedures demonstrate the dialectics of continuity and change that shaped the Temple Mount image after the destruction. Clearly, the core of these precepts applied, according to the rabbis, to the time when the Temple was still standing, and their purpose in that context was to

143 Z. Weiss and E. Netzer, *Promise and Redemption: A Synagogue Mosaic from Sepphoris* (Jerusalem: The Israel Museum, 1996) 30–31. All following quotations from their study are from these pages.

endorse its significance (see pp. 26–32). But the destruction of the Temple did not result in the abrogation of these laws; rather, they were resuscitated with their focus shifted from the Temple to the Temple Mount. This model of permanence and transformation may help us find other customs whose relevance did not fade away in the post-Temple era.

One version of a famous anecdote about R. Yoḥanan b. Zachai's encounter with Nakdimon b. Gurion's daughter, who had lost both her prominent social status and fortune, voices R. Yoḥanan's lament over the girl's indigence: "The family of this young woman would not enter to prostrate themselves in the Temple Mount until fine wool carpets were spread under their legs; and they would come in, prostrate themselves, and return joyfully to their homes."[144] From a literary perspective, R. Yoḥanan's remark contrasts the pre-sent crouching of the girl, which was marked by poverty and humiliation, and was performed before strangers ("She gathered the barley grains from under the feet of the Arab cattle"), with the prostrations of her family in the past, which had been accompanied by noble manners and carried out before the King of Kings.

But this story may also be concealing an amoraic custom. Rabbinic sources render bowing in the Temple as a typical Second Temple routine. Mishnah *Šeqalim* documents this custom ("There were thirteen prostrations in the Temple"), and it is mentioned twice in Mishnah *Middot* as well, which also offers various explanations for this practice. One suggests that, "It (the *soreg*, a stone latticework fence surrounding the Temple structure) used to have thirteen breaches broken by the Greek kings; later they were blocked again and thirteen prostrations were decreed [to be carried out] opposite them"; the other says, "Abba Yose b. Ḥanan says (the prostrations were taking place) opposite the thirteen gates (of the inner court)."[145]

At first glance it would seem that the prostrations mentioned in the legend about R. Yoḥanan and Nakdimon's daughter match the ones in the Mishnah. A second look, however, brings to light some subtle variations in the way the two sources present this act, in terms of both the location's name and the role of prostration among the other activities that are said to take place there. Particularly relevant is the name used to mark the place of prostration; whereas the R. Yoḥanan legend labels it "the Temple Mount," the mishnaic portions call it the Temple. One might argue that there is no real distinction between the two versions, as even in the Mishnah it is not clear exactly where the visitors

144 *Sipre Deut.* 305 (Finkelstein, 325). This part of the narrative is missing from all its many and varied parallels listed by Finkelstein. Only the Babylonian Talmud (*b.Ketub.* 66b–67a) preserved a similar version, but in that case the destination of the Naqdimon family is no longer "Temple Mount" but the "study house."

145 *M.Šeqal.* 6:1; *m.Mid.* 2:3, 6. R. Judah's opinion in *t.Šeqal.* 2:17 (Lieberman, 212) – "opposite a gate [one would] prostrate; opposite a breach [he would only] bend his knees" – seems like mere harmonization of the two other explanations. See also *y.Šeqal.* 6:2 (49d–50a).

performed this activity; was it before they entered the actual Temple structure (fig. 2:B–C), as they passed the gates from the outside, a line of action that seems logical and appropriate, or was it only after they entered the area that was called "the Temple," that is, when they were already inside the *ʿazarah* (the inner court of the Temple), as is implied by the Mishnah in Tractate *Middot*? Nonetheless, the terminological disparity may not be dismissed without notice.

Moreover, in the Mishnah the act of prostration does not stand alone. It operates as one element within the wider set of measures carried out when entering the Temple. In contrast, the R. Yoḥanan story highlights the prostration as an end in itself – one arrives at the Temple Mount, prostrates oneself, and returns home happily. The Temple is nowhere to be found in that narrative. A minimal explanation for these discrepancies may well be, as argued throughout this study, that the narrator of the legend shaped it in light of the status of the Temple Mount in his own day. Still, this source may also echo a custom that did not terminate with the destruction of the Temple. According to this line of thought, to kowtow in front of the gates or the sealed breaches was a common act of courtesy and homage for visitors to the Temple. But this custom did not die out after the Temple itself had been destroyed. The prostrations in the Temple during the Second Temple period turned into prostrations on the Temple Mount in the period of the Mishnah and the Talmud. The following source provides ample support for this proposition.

Liturgical activities of the sort described thus far are attested in a fragment of prayer collections from Palestine discovered in the Cairo Geniza. It reads:

> If you have the good fortune to go up to Jerusalem, when you look at it from Mount Scopus, if you are riding on a donkey step down, and if you are wearing shoes take them off, and rend your garments . . . and enter in mourning. When you arrive in the city make another tear [in your garments] for the Temple and for the nation of Israel. Then, say the following prayers: "'Exalt the Lord our God and prostrate yourselves at His footstool . . .' (Psalms 99:5); 'Exalt the Lord our God and prostrate yourselves at His holy mountain . . .' (Psalms 99:9); 'Come let us prostrate ourselves, kneeling down before the Lord . . .' (Psalms 95:6); 'And the king will desire your beauty; he is your lord, prostrate yourself before him' (Psalms 45:12); 'I prostrate towards Your holy Temple and give thanks to Your name . . .' (Psalms 138:2); We thank you, you are the Lord our God who has given us life and assisted us and given us the good fortune to come near your House which you have chosen from all the dwelling places of Jacob, which your eyes and your heart focus on when it is in ruins and when it is built up. Just as we have seen it in its ruins, let us have the good fortune to see it built up. And give us a good portion . . . with the ones who bring sacrifices and first-fruit offerings to this mountain which your right hand has

> acquired, the Temple of the Lord which your hands have built . . . And may You shake its dust off it and cleanse it of its impurities and fence it off from its breaches and restore it to its place of honor and its holiness and its built-up state, and then may you dwell in it as in the days of old, as it is written 'I will bring them to my sacred mountain' (Isaiah 56:7)." . . . And then, return and circle all the gates and all the corners, as it is written, "Walk about Zion, circle it; count its towers" (Psalms 48:13).[146]

Without making any firm commitment about the nature of this passage or the time of its composition – which would require a separate study – it would seem that something of the liturgical order I have attempted to reconstruct in my discussion above materializes in this passage. Through the clutter of details, excerpted biblical verses, and explicit or implicit references to rabbinic *halakhot*, a number of points stand out as directly relevant to the issue at hand. First, the concluding clause, "And then, return and circle all the gates and all the corners," suggests some sort of liturgical procession. Second, the author negotiates the mountain imagery by repeatedly choosing verses alluding to it. Third, the passage explicitly lists two of the practices mentioned above – rending one's garments and removing one's shoes – although admittedly not in direct relation to the Temple Mount. Finally, prostrations are the common thread that criss-crosses the various quotations from Psalms, which might signal some actual behavior in this ceremonial context.

Conclusions

Lurking behind the appearances of the "Temple Mount" in rabbinic literature is an absorbing conceptual process that came to pass in Jewish circles during the generations following the destruction of the Temple. The sages revived a term whose roots lay in the primordial layers of Israelite literature. Accompanied by a set of fresh notions and imagery, it gradually crystallized into a distinctive entity and acquired an important place in the worldview of the rabbis

146 M. Margaliot, *Hilkhot ʾereṣ yisrael min ha-geniza* (Jerusalem: Mosad ha-rav Kook, 1973) 139–40. See also Wilken, *The Land*, 105–7; Safrai, "Pilgrimage," 381 (Heb.); E. Reiner, "Pilgrims and Pilgrimage to Eretz Yisrael 1099–1517" (Ph.D. diss., Jerusalem: Hebrew Univ., 1988) 163–64 (Heb.). Reiner dates the text to the thirteenth century, while Margaliot claims it was two centuries earlier. An interesting parallel to this fragment from a medieval account that was appended to a manuscript of Ecclesiastes Rabbah was published by M. Hirshman, "The Priest's Gate and Elijah ben Menahem's Pilgrimage," *Tarbiz* 55 (1986) 217–27 (Heb.). But the ceremony there, despite its striking similarities to the description given here, as well as to what is related by Barsauma (see n. 23) about the assembly of the Jews on the holiday of Booths, took place outside the Temple Mount and was centered on the Mount of Olives to the east (for more information about the medieval assemblies on the Mount of Olives, see Hirshman's bibliography). This source may reflect the Muslims' occupation of the area, which undoubtedly put an end to the Jews' assemblies there.

and, it would seem, that of other Jews as well. This innovative development led them to redesign their view of the present and at the same time remake their memory of the past.

How did the rabbis perceive the Temple Mount? First and foremost, they identified it as a concrete, earthly place. In contrast to the Temple and the city of Jerusalem, which in the sages' mind were only partly earthbound – thus the expressions "heavenly Jerusalem" or "heavenly Temple"[147] – they did not attribute any ethereal characteristics to the Temple Mount. Rabbinic literature communicates its essence not as a spiritual notion floating in the upper regions of abstract thoughts but as a worldly, tangible entity that could be seen and visited. Thus, the rabbis regulated everyday encounters with this area through a set of practical, detailed rules.

A new consciousness emerged around this experience. The Temple Mount supplanted the Temple in the conceptual framework of the time: vocabulary originally associated with the Temple was reassigned to the Temple Mount, *halakhot* that had been observed in the former were ascribed to the latter, and themes that had been part and parcel of the Temple were redefined as relating to the Temple Mount.

As I have stressed throughout this essay, this was by no means an absolute transformation, with the Temple obliterated overnight from the Jewish worldview and totally replaced by the Temple Mount. The sanctuary in Jerusalem and the elements associated with it – its paraphernalia, sacrifices, and priests – did not evaporate from Jewish experience of the Roman and Byzantine periods but maintained great significance for numerous facets of life. The argument here makes a case rather that alongside these Temple oriented features a new factor had now come into being – the Temple Mount. The claim that the Temple Mount became an important entity in and of itself is not meant to imply that it was completely detached from its Temple foundations. It is implausible to think that people who visited or contemplated the Temple Mount were unaware that this was the place where the ruins of the Temple were to be found.

In a convoluted process, most of which is now obscured, the Mount inherited several of the Temple's characteristics and acquired a status of its own. It was a dialectical paradigm in which the new and the old both competed with and supplemented each other at the same time. The various formulations used by the rabbis to negotiate this complexity – in *halakhot*, customs, legends, ideas, and messianic hopes – are detailed throughout this study. The outcome of this process was the reconfiguration of a new spatial organization in Jerusalem. By defining a new entity, endowing it with the vocabulary and images of the past, the rabbis redesigned their landscape of the sacred. Previously, in Jewish

147 See E. E. Urbach, "Yerushalim shel matah ve-yerushalim shel ma'alah," in E. E. Urbach, *The World of the Sages: Collected Essays* (Jerusalem: Magnes Press, 1988) 376–91 (Heb.).

experience of the Second Temple period, it centered on the city-Temple pair, now it shifted to the Temple Mount.

Another aspect of the consolidation of the Temple Mount's image – and perhaps the most fascinating one – relates to its impact on shared Jewish memory. According to this cognitive model, people project a new element backward in time, reshaping their picture of the past. Inculcating a certain idea or image in the world of the present is often achieved by fixing its roots deep in the past. Applying this method, the sages of the Mishnah and the Talmud perceived their past in keeping with the concepts prevailing in their own time. Since the Temple Mount had become a prominent category in their experience, they also wove it into their historical memories, as if it had always existed. Unveiling this process is the major challenge tackled in this study.

Who is behind this development? Who was the first person to apply the appellation "Temple Mount" to a concrete landscape as signifying the Temple enclosure? Who worked to introduce it into the Jewish worldview and experience – into halakhic formulations, legends, and everyday speech? I have no answers to these questions. This inability derives from the nature of conceptual dynamics, which can be identified only once an image is sufficiently consolidated, making the stages of its formulation hard to follow. Evidently, the *tannaim* already used the term and so the process under discussion was already under way during their time, but rabbinic material in itself provides no *terminus a quo* for the process. As a result, the discussion above suggests only a relative chronology for the evolution of the Temple Mount in rabbinic literature, namely that it is not an ancient concept inherited from their predecessors. It cannot, however, provide an absolute chronology, and consequently the question of who brought the ancient biblical term back to life, and even more so, endowed it with the content and stature of the Temple, remains unsolved.

It nevertheless seems feasible to identify one important element in the process, namely the source of the expression and the literary context that produced it. The phrase "Temple Mount" appears exactly once in the writings that came to form the Bible, in a passage attributed to the prophet Micah (Mic 3:12; Jer 26:18). Other biblical authors make use of the image of the mountain in connection with Jerusalem and the Temple, sometimes embellishing it with aspirations for the future.[148] The sages of the Mishnah and the Talmud were well aware of such imagery, and it seems quite plausible to assume that this was

148 On the biblical roots, see Eliav, "The Temple Mount," 27–30. After I completed this essay, David Goodblatt published a short, though important, study on the terminological history of the Temple Mount; see David Goodblatt, "The Temple Mount: The After Life of a Biblical Phrase," in Richard E. Friedman and William H. C. Propp, eds., *Le-David Maskil: A Birthday Tribute for David Noel Freedman* (Winona Lake: Eisenbrauns, 2004) 91–101.

the source from which they drew the name "Temple Mount." Striving to fill a vacuum in their suddenly crippling world, people frequently turn to their foundational writings, their ancient sacred texts, for both inspiration and terminology. I believe this is what happened in the case of the Temple Mount. I cannot say, however, why the specific expression "Temple Mount" was chosen rather than other biblical names with similar imagery, such as "Mount Zion" or "My Holy Mount."[149]

So, does rabbinic literature provide us with an accurate picture of the past? Are portrayals of the Second Temple period in this later corpus to be trusted? The answer of the current study is both yes and no. But isn't that what memory is all about?

Many thanks to Martha Himmelfarb, Richard Kalmin, and Jeffrey Rubinstein who read earlier versions of this study and offered invaluable comments.

149 Rightly pointed out by Goodblatt, "The Temple Mount," 101, n. 28.

Conversion to Judaism in Classical Antiquity

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This paper analyzes the evidence for the tremendous increase in the number of Jews between 586 B.C.E. and the first century C.E. While it finds no conclusive evidence for actual proselytizing, since we have no missionary tracts and know of no missionaries, it concludes that it is most likely that this increase, both in the Land of Israel and in the Diaspora, was occasioned by voluntary conversion to Judaism. The major evidence for this increase is to be found in Josephus, whose reliability in this matter, especially in the figure that he gives for the number of Jews who came to Jerusalem for Passover in the year 66, is defended by the author. Evidence for the eagerness to accept proselytes may be found in the character of Abraham as depicted in midrashic literature, as well as in Philo, especially in his account of the translation of the Pentateuch into Greek, in the New Testament, and in various Greek and Roman non-Jewish writers, notably Strabo, Horace, Seneca, Juvenal, and Tacitus. People were attracted to Judaism for various reasons, especially economic advantages; women, in particular, were attracted.

In the latter part of the nineteenth and the early part of the twentieth century, much scholarship, especially in Germany, insisted that Judaism, particularly when Hadrian forbade circumcision in the second century, but not restricted to that period, was not interested in gaining converts.[1] In fact, Judaism was said to be hostile to such attempts. Such scholarship was often based on a hidden agenda, namely to prove that Christianity, which eagerly sought proselytes, was therefore superior to Judaism. Others, such as Dieter Georgi,[2] who goes so far as to assert that Jews were active missionaries, explain the development of Jewish proselytism in the context of an emerging universalism in Judaism itself and as

1 The literature on the subject of proselytism by Jews in antiquity is enormous. See the bibliography listed in my *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* (Princeton: Princeton Univ. Press, 1993) 553–54, n. 1. To this list the following may be added: John G. M. Barclay, *Jews in the Mediterranean Diaspora* (Edinburgh: Clark, 1996); Dieter Georgi, *The Opponents of Paul in Second Corinthians* (2nd ed.; Philadelphia: Fortress Press, 1986); Martin Goodman, *Mission and Conversion: Proselytizing in the Religious History of the Roman Empire* (Oxford: Clarendon Press, 1994); Scot McKnight, "Jewish Missionary Activity: The Evidence of Demographics and Synagogues," in Amy-Jill Levine and Richard I. Pervo, eds., *Jewish Proselytism* (Atlanta: Scholars Press, 1998); Gary G. Porton, *The Stranger within Your Gates: Converts and Conversion in Rabbinic Literature* (Chicago: Univ. of Chicago Press, 1994); and Joyce M. Reynolds and Robert Tannenbaum, *Jews and God-Fearers at Aphrodisias: Greek Inscriptions with Commentary*, Cambridge Philological Society, Supplementary Vol. 12 (Cambridge: Cambridge Univ. Press, 1987).

2 Georgi, *The Opponents of Paul*.

preparation for Christian missionary activity. As for Jewish scholars, they were often influenced by the long-time prevailing attitude of thoroughly discouraging proselytism. Just prior to World War II, the movement of Reform Judaism in the United States considered the possibility of seeking out converts. Two works of scholarship that appeared at that time concluded that Judaism in the talmudic period was favorably disposed toward proselytes and indeed sought after them eagerly.[3] But most studies of the subject by Jewish scholars are influenced by or at least try to explain away the current Orthodox Jewish aversion to seeking converts.

The author of this paper wishes to stress that, in contrast to his earlier view,[4] he does not find evidence of missionary activity, let alone organized missionary activity, by Jews in the Hellenistic-Roman period (in fact, we do not know the name of a single Jewish missionary who systematically sought converts to classical Judaism during this period, nor do we know the title of a single tract that has as its goal the conversion of non-Jews to Judaism), but he does seek to show that Jews during this period were open to those who wished to convert, and that many, perhaps even very many, did convert.

This study attempts to establish two points: first, that there was a tremendous increase in the number of Jews between the time of the destruction of the First Temple in 586 B.C.E. and the first century C.E., both in the Land of Israel and in the Diaspora; and secondly, that there is considerable evidence that Judaism, especially in the period from the second century B.C.E. to the first century C.E., was open to converts and that there is considerable evidence that many did indeed convert, both in the Land of Israel and in the Diaspora. A good deal of the thesis depends upon the reliability of Josephus, who is a key source for population figures. Since much of the increase in population apparently occurred in the Land of Israel, an important part of the argument will be a consideration of the question as to how many people the Land could support in those days.

The Number of Jews in 586 B.C.E.

Salo Baron, whose greatest specialty was estimating Jewish populations through the ages, begins his article, "Population,"[5] with a strong statement of caution:

3 Bernard J. Bamberger, *Proselytism in the Talmudic Period* (Cincinnati: Hebrew Union College, 1939); William G. Braude, *Jewish Proselyting in the First Five Centuries of the Common Era: The Age of the Tannaim and Amoraim* (Providence: Brown Univ. Press, 1940).

4 See my "Was Judaism a Missionary Religion in Ancient Times?" in Menaḥem Mor, ed., *Jewish Assimilation, Acculturation and Accommodation: Past Traditions, Current Issues, and Future Prospects: Proceedings of the Second Annual Symposium of the Philip M. and Ethel Klutznick Chair in Jewish Civilization Held on Sunday-Monday, September 24–25, 1989* (Lanham: Univ. Press of America, 1992) 24–37.

5 Salo W. Baron, "Population," *Encyclopaedia Judaica* (16 vols.; Jerusalem: Macmillan, 1971) 13:866.

"Because of the great difficulties in ascertaining human population data in general, and Jewish data in particular, especially in ancient and medieval times, a word of caution is even more necessary here than in most other areas of historical and sociological research." Baron cites the report of Carlo Cippola and his associates to the International Congress of Historical Sciences that "in the eyes of demographers bent on scientific precision and certainty all demographic research undertaken for any period before the eighteenth century runs the risk of appearing as a mere fantasy." Nonetheless, he adds, population statistics are too vital for the understanding of all other socioeconomic, political, and even intellectual developments for scholarship to be satisfied with a resigned *ignoramus et ignorabimus*. He quotes the statement of David Hume[6] that the question of population in every nation and every period is "the most curious and important of all questions of erudition." He also cites the Spanish sociologist Javier Ruiz Almanza's epigram, that "history without demography is an enigma, just as is demography without history." And yet, it is only recently, and especially since the appearance of Tim Parkin's work,[7] that demography has finally taken a respected place in classical scholarship.[8]

Baron draws upon census figures found in the Bible itself, notably in 2 Samuel 24:9 and 1 Chronicles 21:5, which indicate, in the days of King David (ca. 1000 B.C.E.), a population well over five million and which he approaches very critically. To be sure, he also draws upon the Assyrian king Sennacherib's admittedly grandiloquent boast that in 701 B.C.E. he had deported 200,150 men, women, and children from the Judaean kingdom. He also cites biblical data (2 Chr 35:7–9) concerning the number of paschal lambs, 37,600, slaughtered in the reign of the Judaean king Josiah in 622 B.C.E. (with an average of ten diners per each lamb this gives a total of 376,000). As we see from a similar method in Josephus (*J.W.* 6.422) and in rabbinic literature (*b.Pesaḥ.* 64b) of counting people through noting the number of animals slaughtered, it is the high priest who is responsible for the counting, and we may surmise that since the counting is for religious purposes, care would have been shown. Apparently, constant warfare for the period after Josiah caused a great decline in population; and we may ascribe a general credibility, though the exact figures may be debated, to the import of the figures for the kingdom of Judah during the Babylonian conquest and its aftermath in the years 597–82 B.C.E., notably the statement (2 Kings 24:14–16) that the Babylonians "carried away all Jerusalem, and all the princes, and all the

6 David Hume, "On the Populousness of Ancient Nations," in his *Essays: Moral, Political and Literary*, ed. Thomas H. Grose (London: Longmans, Green and Co., 1875) 58. Cited by Salo W. Baron in his "The Israelitic Population under the Kings," in Leon A. Feldman, ed., *Ancient and Medieval Jewish History: Essays by Salo Wittmayer Baron* (New Brunswick: Rutgers Univ. Press, 1972) 23.

7 Tim G. Parkin, *Demography and Roman Society* (Baltimore: Johns Hopkins Univ. Press, 1992).

8 See G. W. Bowersock, "Beloch and the Birth of Demography," *TAPA* 127 (1997) 373–79.

mighty men of valor, even ten thousand captives, and all the craftsmen and the smiths." Finally, Baron refers to archaeological discoveries that confirm that after 586 B.C.E. the Judaean countryside was quite deserted.[9] On the basis of these and numerous other scattered data, supported by a number of demographic considerations, we may, largely based on Baron's figures, venture to propose the following highly tentative table for the approximate population of ancient Israel and Judah between 1000 and 586 B.C.E.:

	1000 B.C.E.	*733/701 B.C.E.*	*586 B.C.E.*
Judah	450,000	300,000–350,000	162,000–233,000
Israel	1,350,000	800,000–1,000,000	—

McGing[10] states that "Baron gives absolutely no indication of how he arrives at the figure for the population of Judah in 586 B.C.E. – which is the vital starting place for the notion of a massive increase in the population later on." McGing was clearly not aware that Baron had discussed this matter in an essay in Hebrew, which had been translated into English, in which he explained how he arrived at an estimate of between 300,000 and 350,000 for the population of Judah in the year 733 B.C.E.[11] Baron's figure for the total population of Judah in 586 B.C.E. is based upon the estimate that the number of exiles, as mentioned in Jeremiah 52:28–30 (3,023 in Nebuchadnezzar's seventh year) and in 2 Kgs 24:14–16 (10,000, in addition to artisans and gatekeepers, in Nebuchadnezzar's eighth year) and in Jer 52:29 (832 in Nebuchadnezzar's eighteenth year) and in Jer 52:30 (745 in Nebuchadnezzar's twenty-third year), consisted primarily of adult male soldiers. If we take into account the families of these adults, since in the first exile only adult males were counted, although they went into exile with their families, and if we multiply the number by four, since we may reasonably estimate that the average family consisted of about three additional members besides the soldiers, we arrive at a figure of approximately 52,000 exiles; moreover, only 1,577 were exiled in 586 B.C.E. He estimates that twenty to thirty per cent of the entire population belonged to the soldier families and less than three per cent to the craftsmen. This would give an approximate figure of between 162,000 and 233,000 for the total population.

Can such numbers be taken seriously? We may wonder about figures of

9 Baron, "Israelitic Population," 23–73, has examined the literary and archaeological evidence.

10 Brian McGing, "Population and Proselytism: How Many Jews Were there in the Ancient World?" in John R. Bartlett, ed., *Jews in the Hellenistic and Roman Cities* (London: Routledge, 2002) 90.

11 Salo W. Baron, in *Abhandlungen zur Erinnerung an Hirsch Perez Chajes* (Vienna: Alexander Kohut Memorial Foundation, 1933) 76–136; English translation: Baron, "Israelitic Population" 23–73.

casualties in war, number of captives, and especially boasts of victorious kings; but some of the figures in the Bible are census figures (probably official numbers, especially when based on collection of taxes and the imposition of public services, where the propensity toward rounding of numbers is reduced or even absent)[12] and deserve to be taken more seriously. Scot McKnight[13] cannot believe that 1,650,000 Jews were wiped out, as Baron postulates, between 1000 and 586 B.C.E., but he forgets that ten of the twelve tribes were eliminated by the Assyrians in 722–21 B.C.E.

The Credibility of Josephus Generally for Population Figures

Josephus (*Ag. Ap.* 1.45) is particularly critical of those who venture "to describe events in which they bore no part, without taking the trouble to seek information from those who know the facts." Indeed, as Marincola[14] has noted, one of the most distinctive aspects of ancient historiography generally is the liberal use of polemic against predecessors. Josephus is aware that he may be subjected to a charge of bias, as a Jew and as one who had participated directly in the war against the Romans; and so he explicitly promises that he will not exaggerate the deeds of his compatriots and and that he will faithfully record the actions of both combatants (*J. W.* 1.9). He attacks, in the sharpest terms, other historians of the war: "We have actually had so-called histories even of our recent war published by persons who never visited the sites nor were anywhere near the actions described, but, having put together a few hearsay reports, have, with the gross impudence of drunken revelers, miscalled their productions by the name of history" (*Ag. Ap.* 1.46). Josephus is clearly here contrasting the accuracy of his narrative of his own campaign as general in Galilee and his presence at the siege of Jerusalem with the account of his chief literary rival, Justus of Tiberias (*Life* 336–39). The fact that he felt constrained to defend himself against the charges of his rival historian Justus meant that he had to be particularly careful to be accurate. He is especially critical of the inaccuracies of Justus (*Life* 358), since the latter was not a combatant and had not consulted Vespasian's and Titus' *Commentaries*. He specifically states that Justus had written twenty years earlier but that he had not dared to publish his work while Vespasian, Titus, and Agrippa were still alive, clearly implying that he himself had no such fears and, in fact, challenging his rivals to match his daring.

12 See Parkin, *Demography*, 19.

13 McKnight, "Jewish Missionary Activity," 29, n. 40.

14 John Marincola, *Authority and Tradition in Ancient Historiography* (Cambridge: Cambridge Univ. Press, 1997) 218–36.

Josephus, on the other hand, stresses that, having presented his work to Vespasian, Titus, and Agrippa, he expected to receive testimony to his accuracy and that he was not disappointed. In particular, he remarks (*Life* 364) that Agrippa wrote sixty-two letters testifying to the accuracy of the records. To be sure, the number, sixty-two, does seem like a case of overkill; but if they are authentic this indicates that Josephus' accuracy was very much in question. True, he may have had a motive in exaggerating the figures; but at the time that he published his work a mere decade after the fall of Jerusalem, there were many survivors of the siege who could have challenged his data. It is surely significant that there is almost no precedent for what Josephus does, namely to seek verification of his work from a knowledgeable reader. For Josephus this is clearly a means of securing some sort of authority, both because the individuals to whom he showed his account had participated in the events and because they were important people.

We may well ask whether Josephus presented his work to the emperors Vespasian and Titus in order to have them confirm their accuracy. Perhaps he simply wanted to confirm, since they were finished works, that they conformed with the official version. Josephus' motive in presenting the book to them may have been to obtain a reward, as indeed he did receive. Indeed, that Titus affixed his signature to Josephus' work and ordered the book to be published meant that he had thus made Josephus' account the official version of the war (*Life* 363). The fact, as noted by Josephus (*Life* 359–60) and as we have mentioned above, that Josephus' great literary rival, Justus of Tiberias, waited until Vespasian and Titus had died before publishing his account, which he had written twenty years earlier, indicates that Justus had written an independent version and did not expect to get the imprimatur of the emperors. But even if Josephus hoped to gain something from his version, the fact is that his account would seem as a history to be superior in comprehensiveness to that of Justus in that Josephus, and not Justus, had actually been a combatant in the war, had been present in Jerusalem during the siege, and had had access to the memoirs of Vespasian and Titus.

We do have instances of other historians showing their work to emperors. Cassius Dio is the best example. He (73 [72].23.2) had written a pamphlet about the dreams and portents that encouraged Alexander Severus to seek the principate and had sent it to the emperor, who, in turn, sent Dio a long and complimentary acknowledgment. Severus may simply have written a polite note of gratitude. But this is not a case of seeking confirmation of the accuracy of the historian's work, as is the case of Josephus' submitting his work to Vespasian and Titus and Agrippa II. We have no indication that Dio sought Severus' stamp of approval, which, to be sure, he did receive, after which Dio decided to write a history of the Romans from its beginning to the death of Severus (235 C.E.).

As a result of this acknowledgement, says Dio, he wrote his history, which, he asserts, won Severus' approval; but he does not tell us specifically that Severus had vouched for its accuracy.

A closer example is Fronto's planned history on the Parthian War (161–65 C.E.) of the Emperor Lucius Verus. Verus himself was highly involved in that project, and Fronto solicited his input precisely because he knew that Verus could provide him with detailed information (there are some letters, e.g., *Ad Verum Imperatorem* 2.9, between Fronto and Verus that attest to this). Such apparent interest in "research" would not, of course, have guaranteed the accuracy of the information; and, indeed, it might even call into question its accuracy, since the source had such a vested interest in the narrative. But there is a difference between this case and that of Josephus in that Josephus had already written his history and sought confirmation of its accuracy after he had completed it. Fronto could still modify his account, since he was merely gathering data.

Another possible parallel is Cicero's offer to his friend Lucius Lucceius (*Ad Familares* 5.12) to provide him with as much information as he needed concerning the year of Cicero's consulship. But here neither Cicero nor Lucceius is seeking to confirm the accuracy of the data; in fact, Cicero suggests that Lucceius should feel free to embellish the facts.

Indeed, Josephus' very subject matter suggests that he feels most at home writing of events about which he has some personal knowledge. In this regard his approach to historiography is much more "Polybian" than "Livian." This should make us more inclined to trust Josephus – not because he is free of bias (what historian is?) but rather because there are fewer layers (chronological and otherwise) between him and his information. Moreover, no historian whose works have come down to us from antiquity – not Herodotus, not Thucydides, not Livy, not Tacitus, not Dio Cassius[15] – is more interested in demonstrating his reliability and is more aware of his rivals. Indeed, he starts his history of the Jewish War with the statement (*J.W.* 1.1–2) that the subject of his history, the war of the Jews against the Romans, had attracted historians, some whom had taken no part in the action but had merely collected from hearsay casual and contradictory stories that they had edited in a rhetorical style, while others, who had witnessed the events, had been guilty of historical inaccuracy, due either to their flattery of the Romans or their prejudice against the Jews, and had resorted in the one case to exaggerated encomium and in the other case to invective.

From this opening statement it is clear that the number of historians of the war was not small and that Josephus sought mightily to present himself as one who was not unduly beholden to the Romans and who was fair-minded toward

15 To be sure, Polybius is very much concerned with establishing his reliability and countering his rivals. Such remarks occur throughout his work, and at great length in Book 12.

his fellow-Jews. He goes on (*J.W.* 1.7) to assert that the others who had written accounts of the war may have given the title of histories to their work but that, in fact, they utterly lacked sound information and that they exaggerated the achievement of the Romans while deprecating that of the Jews. The fact that Josephus (*J.W.* 1.3) wrote his original account in Aramaic and then arranged, with some help from assistants (*Ag. Ap.* 1.50) to have his work translated into Greek, meant that he was ready to face the criticism of his fellow historians in the Graeco-Roman world. It was, he says, because he was so confident of the veracity of his account that he took as his witnesses, before all others, the commanders-in-chief of the war, Vespasian and Titus, and that it was to them that he presented the first copies of the work. He then states that he gave copies to many Romans who had taken part in the war and who presumably could question his veracity. He further adds that he sold copies to a large number of Jews who likewise could have challenged his claim to truth. "All of these," he says (*Ag. Ap.* 1.52), "bore testimony to my scrupulous safeguarding of the truth, and they were not the men to conceal their sentiments or keep silence had I, through ignorance or partiality, distorted or omitted any of the facts."

Not only does Josephus seek to establish his own credibility as an accurate historian, but the fact is that he dares (*Ag. Ap.* 1.15–27) to criticize at length and by name no fewer than eight Greek historians. To be sure, none of the historians whom Josephus names was alive in his day, and the treatise in which he names them is noteworthy for its strong polemical and rhetorical elements.[16] Nevertheless, there was a great risk in doing so, inasmuch as Josephus' contemporary rivals, who often appealed to these predecessors and who were much influenced by them, could easily have reduced him to absurdity if they could show that Josephus himself was unreliable as a historian. His method is to show how the Greek historians, namely, Hellanicus, Acusilaus, Ephorus, Timaeus, Herodotus, Antiochus of Syracuse, Philistius, Callias, the Atthides, the historians of Argos, and the historians of the Persian invasion themselves accused one another of inaccuracies, mendacities, and inconsistencies. Surely, as Josephus admits (*Ag. Ap.* 1.18), no historian had a higher reputation for accuracy than Thucydides; and yet, Josephus does not hesitate to note that on many points even Thucydides is accused of error by some critics. Certainly no historian would have dared to be so critical of his fellow historians unless he felt confident that his own reputation for accuracy was beyond reproach.

Josephus then maintains (*Ag. Ap.* 1.19–22) that the most fundamental reason for the errors and inconsistencies of the Greek historians is the neglect of the Greeks, including even the Athenians, to keep official records of current events.

16 See Aryeh Kasher, "Polemic and Apologetic Methods of Writing in *Contra Apionem*," in Louis H. Feldman and John R. Levison, eds., *Josephus' Contra Apionem: Studies in Its Character and Context with a Latin Concordance to the Portion Missing in Greek* (Leiden: Brill, 1996) 143–86.

Josephus could hardly have ventured to make such a statement if he himself had failed to consult official records, such as censuses and military reports. A second reason (*Ag. Ap.* 1.23–27), says Josephus, for their inconsistencies is that the Greek historians were concerned not so much with discovering the truth as with displaying their literary ability and thus outshining their rivals, though, ironically, that is precisely what Josephus himself seems to be doing in the essay *Against Apion*. Having made such a statement Josephus had to be careful to place his premium upon accuracy and truth.

The Number of Jews in the Hellenistic-roman Period

There are many questions when we deal with figures of ancient populations. In his pathbreaking book on Roman demography, Parkin[17] stresses that we cannot believe what ancient authors tell us about population sizes without first considering their source of information (namely, whether they are making observations or whether they are basing themselves on census material) and their purpose in giving us the information. In particular, he attacks the practice of some scholars of accepting a population figure if it "sounds about right," since this is clearly too subjective. Even if we are dealing with a census figure, does this include only adult males, or does it include women, children, enfranchised aliens, and ex-slaves? When we deal with ancient literary sources, we must be wary of their hidden agenda, their cultural bias, their preference for symbolic and rounded numbers, and the impact of bureaucratic inefficiency and attempts at tax evasion on the part of those seeking to avoid being counted.[18]

Instead, a number of modern scholars, most notably Hopkins, Parkin, Henige, and Scheidel, have stressed the importance of examining modern parallels to determine which ancient literary evidence has some claim to coherence and validity.[19] Scholars are increasingly influenced by parallels with modern studies as to the number of people who can live in a given-sized area, the amount of food and water that they need to consume, and how to explain sizable jumps and declines in numbers. Modern study of ancient demography has to an ever

17 Parkin, *Demography*, 65.

18 See Walter Scheidel, "Progress and Problems in Roman Demography," in Scheidel, ed., *Debating Roman Demography* (Leiden: Brill, 2001) 11.

19 Keith Hopkins, "On the Probable Age Structure of the Roman Population," *Population Studies* 20 (1966) 245–64; Parkin, *Demography*; Tim G. Parkin, "Clearing away the Cobwebs: A Critical Perspective on Historical Sources for Roman Population History," in J. Bintliff and K. Sbonias, eds., *Reconstructing Past Population Trends in Mediterranean Europe (3000 BC–AD 1800)* (Oxford: Oxford Univ. Press, 2000); David Henige, "He Came, He Saw, We Counted: the Historiography and Demography of Caesar's Gallic Numbers," *Annales de démographie historique* (1998) 215–42; and Scheidel, "Progress and Problems," 10–12.

higher degree been interdisciplinary, drawing insights from parallels in other areas, ancient and modern, in such fields as history, biology, medicine, archaeology, anthropology, and sociology.[20] But even Parkin[21] warns that we should not become bogged down in protracted comparisons with specific modern populations, as if the ancient world as a whole is directly comparable; for even if it were, he asks, how would we know? Even when we do have census figures for the number of Roman citizens, as we have in Livy every five or ten years, do they include women and children or are they of adult male citizens alone or only those who possessed the minimum property qualification that made them liable to conscription?[22] How accurate was the count? Did they include those serving overseas? For example, how, if at all, can we explain the sharp rise in the Roman population, according to the census, from 319,000 in 131 B.C.E. to 395,000 in 125 B.C.E. after thirty years of slow decline?[23] In particular, since numerals in manuscripts are represented by letters in both Greek and Latin manuscripts, they are often incorrectly transmitted.[24]

How many Jews were there in the Hellenistic-Roman period? The tendency toward extreme skepticism that we find in the most recent scholarship is epitomized by the remark of Deevey[25] in regard to estimates of populations before 1650. Jones,[26] however, states categorically that he knows of only one figure that can be regarded as an accurate count of the entire population of a definite area. That figure, he asserts, occurs in what he says is an unexpected place, namely in a speech put into the mouth of King Agrippa II by Josephus (*J. W.* 2.385), in which he says that the population of Egypt, exclusive of Alexandria, as may be estimated from poll-tax returns, was 7,500,000.[27] What is striking is that Josephus gives the basis for this figure, namely the poll-tax returns. This is pre-

20 See Scheidel, "Progress and Problems," 80–81.

21 Parkin, *Demography*, 69.

22 See A. H. M. Jones, *Ancient Economic History* (London: Lewis, 1948) 3.

23 Jones, *Ancient Economic History*, 5. On the questions as to what the census figures represent and the degree to which they are reliable see especially P. A. Brunt, *Italian Manpower 225 B.C.–A.D. 14* (Oxford: Clarendon Press, 1971) 26–43, who explains the tremendous increase in the number of persons counted under Augustus by postulating that unlike Republican censors he included women and children.

24 L. D. Reynolds and N. G. Wilson, *Scribes and Scholars: A Guide to the Transmission of Greek and Latin Literature* (Oxford: Clarendon Press, 1974) 201.

25 E. S. Deevey, "The Human Population," *Scientific American* 203.5 (1960) 197: "One suspects that writers have been copying each other's guesses."

26 Jones, *Ancient Economic History*, 10.

27 The Codex Vaticanus, dating from approximately the eleventh century, reads 5,500,000, and in the margin reads 7,500,000. Niese adopts the latter figure, which is found in all the other manuscripts. Moses I. Finley, *The Ancient Economy* (Berkeley: Univ. of California Press, 1973) 31, says that this figure is one of the very few ancient population figures that we have that is likely to be accurate.

cisely the kind of information that is most likely to give us a fair approximation of the actual number of inhabitants, as Parkin, who is such a minimalist when it comes to population statistics, is ready to concede.[28] We know from the papyri that such figures were based on careful house-to-house canvassing and included all people – men, women, children, slaves, and aliens. Shall we say, as do Bagnall and Frier,[29] that Josephus' figure was not derived from an actual count? Moreover, Josephus may, admittedly, have been motivated to exaggerate the number because Agrippa, by emphasizing that the greatest of nations have submitted to the Romans, is seeking to deter the revolutionaries from rebelling.

It is significant that Josephus' figure differs from that given by Diodorus Siculus (1.31.8) a century earlier, who notes that the population was three million but that in times of old it was seven million. Diodorus, we may remark, was also aware of the value of census returns, since he states that the free residents of Alexandria numbered 300,000, as indicated by census returns. The manuscripts read three million as the population of Egypt, but, as Parkin[30] indicates, almost all scholars regard this as a textual error and emend it to seven million. Rathbone[31] is skeptical as to the credibility of Josephus' figure, since, he says, the core of the speech put into Agrippa's mouth is a mere encomium of the size and strength of the Roman Empire. He is puzzled by the fact that someone who had access to the records of the Roman administration of Egypt should have tried to calculate the total population from the number of adult males recorded in the lists of those liable to the poll-tax rather than from the census figures from which the poll-tax lists were compiled. Moreover, basing himself on the carrying capacity of the land of Egypt, which had at most 25,000 square kilometers of cultivated land, he states that the economy and population of Graeco-Roman Egypt are more likely to find a parallel in Egypt of the nineteenth century and consequently concludes that the maximum population that Egypt could have sustained is between three and five million;[32] but, we may remark, even Rathbone does not contest Diodorus' statement that in times of old it supported a population of seven million. Indeed, Rathbone[33] admits that in theory the land would have been sufficient to maintain almost ten million people at subsistence

28 Parkin, *Demography,* 19–21.

29 Roger S. Bagnall and Bruce W. Frier, *The Demography of Roman Egypt* (Cambridge: Cambridge Univ. Press, 1994) 53–54. Moreover, Bagnall and Frier are skeptical as to the accuracy of Josephus' figure for the population of Egypt because this would suppose a population level that Egypt was not to reattain until the end of the nineteenth century after the introduction of perennial irrigation and the beginning of Egypt's integration into the industrial economies of Europe.

30 Parkin, *Demography,* 65.

31 D.W. Rathbone, "Villages, Land and Population in Graeco-Roman Egypt," *Proceedings of the Cambridge Philological Society* 36 (1990) 105–6.

32 Rathbone, "Villages, Land and Population," 107–10.

33 Rathbone, "Villages, Land and Population," 108.

level, though he realizes that this does not take into account years of poor crops and sizable exports and the fact that those in the urban population who were better off would certainly live above the subsistence level. But he is thinking, we may add, of the subsistence level of the nineteenth century, not of antiquity. Josephus, he admits, moved in official circles and was probably acquainted with at least one governor of Egypt, the renegade Jew Tiberius Julius Alexander.

We have several writers who give us indications of the tremendous increase in the number of Jews in the Diaspora. So populous," says Philo (*Flacc.* 45–46), "are the Jews that no one country can hold them, and therefore they settle in very many of the most prosperous countries in Europe and Asia." Indeed, Philo (*Legat.* 214) says that the Jews are spread over all the continents and islands so that they seem to be not much less in number than the indigenous inhabitants. Philo is here discussing the dilemma in which the Roman governor of Syria, Petronius, found himself when he received the order of the Emperor Gaius Caligula to dedicate a statue of the Emperor in Jerusalem, since he realized that the Jews would die en masse rather than permit this to be done. It was therefore, to be sure, in Petronius' interest to exaggerate the number of the Jews; and when he sends the letter to the Emperor urging him to cancel his order he repeats (*Legat.* 330) that the Jews dwell not only in their Holy Land but also everywhere throughout the inhabitable world. When the Jewish king Agrippa I writes to Caligula he likewise emphasizes (*Legat.* 281–82) the fact that the Jews are spread out in Egypt, Syria, Asia Minor, Greece, the islands of the Aegean, and Mesopotamia. Strabo, who because of his extensive travels was in a good position to see how relatively numerous the Jews were, is quoted by Josephus (*A.J.* 14.114) as saying that the whole habitable world (*οἰκουμένη*) is filled with Jews and singles out Cyrene and Egypt in particular. The Jewish King Agrippa II (*J.W.* 2.398), attempting to dissuade the Jews from going to war with the Romans, warns them that, since there is not a people in the world who do not contain a portion of the Jews, Jews everywhere will be massacred.

As to Philo's estimate that the Jews in Egypt numbered a million (*Flacc.* 43), this is not merely Philo's estimate, inasmuch as he states that the governor of Egypt, Flaccus, knew that there were no fewer than a million Jews in the province. He does not tell us how he knew that Flaccus knew how many Jews were in the province, but we may conjecture that as the governor of a province that had a history of tension between Jews and Greeks, he might well have assumed that the governor must have had access to such information. McGing[34] objects to my statement that Philo was the head of the Alexandrian Jewish community and consequently must have had considerable knowledge of the number of Jews. In response, we may acknowledge that it is true that we nowhere have a statement that Philo was the head of the community, but surely he would not have

34 McGing, "Population and Proselytism," 97.

been chosen to head the delegation of Alexandrian Jews that met with the Emperor Gaius Caligula (*A.J.* 18.259) if he were not *de facto* the head of the community. Moreover, even if he were not actually the head of the community, he certainly describes himself (*Spec.* 3.1–6) as no longer having leisure for philosophical speculation and having been plunged and indeed submerged in the ocean of civic cares. This is the picture of a person who has devoted himself fully to the concerns of the community. True, the figure is an estimate, but one cannot plan conscientiously, as apparently he did, for a community's needs if one does not have a good idea as to the number of people in that community.

The figure of a million Jews in Egypt does not seem outrageously large when we consider that we have a figure, admittedly based upon an interpretation of a badly damaged text in the *Acta Alexandrinorum*, that there were 180,000 Jews in Alexandria in the year 37.[35] We are told that during the riot in Alexandria during the year 66 (*J.W.* 2.497) 50,000 Jews perished, a round number about which we may be suspicious. But the very fact that both Philo and Josephus indicate that the number of Jewish inhabitants was very large convinces even so skeptical a scholar as Tcherikover[36] that their number was really large even if we cannot be precise as to their exact number. Another skeptical scholar, Wasserstein,[37] commenting on Philo's estimate (*Flacc.* 43) of the number of Jews in Egypt, remarks that the fact that he mentions such a number points to his expectation that it or something like it might be believed. According to Cassius Dio (68.32.2), during the revolt led by the Jewish messianic figure Lukuas-Andreas in 115–17, the Jews were able to kill 220,000 in Libya and 240,000 in Cyprus, similarly large numbers about which we are, to be sure, suspicious; and inasmuch as by the year 117 the revolt had been mercilessly put down, we may conjecture that the number of Jews slain would have been enormous even if we are hardly in a position to give more precise numbers.

As to the number of Jews in Syria, Josephus (*J.W.* 7.43) remarks that Jews were densely interspersed among the native populations of every portion of the world but were particularly numerous in Syria owing to the proximity to Palestine. In view of this statement, Harnack[38] postulates that the only province

35 See Diana Delia, "The Population of Roman Alexandria," *TAPA* 118 (1988) 286–88.

36 Victor Tcherikover, *Hellenistic Civilization and the Jews* (Philadelphia: Jewish Publication Society, 1959) 286–87.

37 Abraham Wasserstein, "The Number and Provenance of Jews in Graeco-Roman Antiquity: A Note on Population Statistics," in Ranon Katzoff, ed., *Classical Studies in Honor of David Sohlberg* (Ramat Gan: Bar-Ilan Univ. Press, 1996) 307–8.

38 Adolf Harnack, *The Mission and Expansion of Christianity in the First Three Centuries*, trans. James Moffatt (2 vols., 2nd revised ed.; London: Williams and Norgate, 1908) 1:6–7, cites the estimate of Julius Beloch, *Die Bevölkerung der Griechisch-Römischen Welt* (Leipzig: Duncke and Humblot, 1886) 258–59, that the Jews in Egypt comprised about thirteen per cent of the total population, which he estimates at five million. This would put the number of Jews at 650,000.

in the Roman Empire where the percentage of Jews was higher than in Egypt was Syria; and consequently he estimates that the number of Jews in Syria was over a million. In this connection, we recall Josephus' remark (*J.W.* 2.560) that in the year 66, on the eve of the revolt against the Romans, though the inhabitants of the Syrian city of Damascus were fired with a determination to kill the Jews who resided among them, they hesitated because of their own wives, who, with few exceptions, had all converted to Judaism, though ultimately they slaughtered all the Jews, to the number of 10,500.

As a consequence of the data cited here and elsewhere, Baron[39] estimates that in the first century over 4,000,000 Jews lived within the boundaries of the Roman Empire outside of Palestine, with over a million each in Syria, Egypt, Babylonia, and Asia Minor; that approximately 3,000,000 lived in Palestine, and at least 1,000,000 more in Babylonia and other countries not subjected to Roman rule. Baron[40] accepts as "a fair historical reminiscence" the statement of Bar-Hebraeus, a thirteenth-century Christian Syrian writer of Jewish extraction, that the census of all the Jews in the Empire commissioned by the Emperor Claudius revealed that the total was 6,944,000, which Baron says is not impossible nor even improbable. I originally accepted Baron's position on this matter; but in an article in 1995 I called attention to Rosenthal's refutation of Baron[41] and admitted my error,[42] since we find that the very same number is given in the Syriac epitome of Eusebius' *Chronography*[43] as the number not of Jews but of Roman citizens. McGing,[44] who apparently was unaware of my disavowal of Baron's acceptance of Bar-Hebraeus' figure as relating to the number of Jews, correctly makes the point that the notion that Claudius would order a census specifically of Jews is extremely improbable, especially, we might note, in view of Claudius' concern to be even-handed in his treatment of the Jews, as we see in his edict with respect to the Jews (*A.J.* 19.280–85) and notably

39 Salo W. Baron, *A Social and Religious History of the Jews* (18 vols., 2nd ed.; New York: Columbia Univ. Press and Philadelphia: Jewish Publication Society, 1952) 1:170 and n. 7, pp. 370–72. McKnight, "Jewish Missionary Activity," 5–14, notes the self-confessed tentative and speculative nature of Baron's estimates and stresses that at no point does Baron make any suggestion that demographic figures from two different periods can be explained only on the basis of proselytization. However, even McKnight is ready to concede a total Jewish population in the first century of six million and offers no other explanation as to how to explain the vast increase in numbers.

40 Baron, *A Social and Religious History,* 1:170.

41 Judah Rosenthal, "Bar Hebraeus and a Jewish Census under Claudius," *Jewish Social Studies* 16 (1954) 267–68.

42 See my "Reflections on Rutgers' 'Attitudes to Judaism in the Greco-Roman Period,'" *JQR* 86 (1995) 155, n. 3.

43 *Epitome Syria ex Eusebi Chronicorum Canonum Libro Deprompta*, in Alfred Schoene, ed., *Eusebi Chronicorum Canonum = Eusebi Chronicorum Libri Duo* (2 vols.; Berlin: Weidmann, 1875–76) 211.

44 McGing, "Population and Proselytism," 94.

in his famous letter (*Corpus Papyrorum Judaicarum* 2, no. 153).[45]

The father of Graeco-Roman demography, Beloch,[46] who was attacked in the strongest terms by such giants of his own day as Mommsen and Wilamowitz, and who has now been rehabilitated in the highest terms by Bowersock, Parkin, and Scheidel,[47] estimates the number of Jews in the early Roman Empire as six million, including two million in Palestine. In a recent essay on demography in the new edition in the *Cambridge Ancient History*, the hypercritical Frier[48] states that "by and large Beloch's prudent estimates [which were made over a century ago] have stood up extremely well to subsequent criticism." He then adds that the main difficulty is Beloch's estimate for Anatolia and greater Syria [which includes Palestine], to which Beloch assigned a combined population of nineteen million. Frier offers as the reason for his skepticism his belief that Beloch's figure would require a population density that has not been achieved until the twentieth century. But, we may reply, this assumes that the ancients required a standard of living comparable to ours and that they were not able to raise or import enough food to maintain it. Philo (*Mos.* 2.232), obviously thinking of the extent to which the Jews in his own day had spread out to various countries, has God reply to those who have been unable to partake of the paschal lamb that they do not deserve to be deprived of this privilege, "particularly if the nation has grown so populous that a single country cannot contain it and has sent out colonies in all directions." Again, Philo calls attention to the magnitude of the population of the Jews (*Spec.* 1.133, 141) by noting that even the poorest of the priests have a superabundance of first-fruits. These figures diverge considerably from one another, but all of them indicate a vast increase in the number of Jews within the five centuries after the destruction of the first Temple. When one examines the long list of Jewish communities in the Diaspora, which is well documented by archaeological, epigraphic, papyrological, and literary evidence,[49] the impression, even if it is not precisely quantifiable, is that the Jews were very numerous, even though we cannot arrive at the actual total number of Jews.

45 See Victor A. Tcherikover, "Prolegomena" in Victor A. Tcherikover and Alexander Fuks, eds., *Corpus Papyrorum Judaicarum* (3 vols.; Cambridge, Mass.: Harvard Univ. Press, 1957) 1:73–74; and my *Jew and Gentile in the Ancient World*, 561 n. 59.

46 Beloch, *Die Bevölkerung*. For a thorough and fair appreciation of Beloch's achievement see Elio Lo Cascio, "The Size of the Roman Population: Beloch and the Meaning of the Augustan Census Figures," *JRS* 84 (1994) 23–40.

47 Bowersock, "Beloch and the Birth of Demography," 373–79; Parkin, *Demography*, 5; Scheidel, "Progress and Problems," 5–9.

48 Bruce W. Frier, "Demography," CAH 11 (2000) 811.

49 So Wasserstein, "The Number and Provenance of Jews," 312, who cites Emil Schürer, *The History of the Jewish People in the Age of Jesus Christ*, English version ed. by Géza Vermes, et al. (3 vols.; Edinburgh: Clark, 1986) 3:1–86.

The Number of Jews in Palestine

How many Jews lived in Palestine during the first century? Surely one cannot proceed, as does Harnack,[50] who estimates that the number was about 700,000, on the basis of the fact that in the year that he wrote his book, 1902, there were between 600,000 and 650,000 Jews living there. Juster[51] goes to the other extreme in estimating the total as 5,000,000. In his pathfinding work, Beloch[52] estimates the total as no more than 2,000,000.

The recovery of the Jewish population after 586 B.C.E. was very slow. According to Ezra (2:64–65), the whole congregation of returning exiles was 42,360, besides 7,337 servants and 200 singers. How reliable are these numbers? Clearly, the book of Ezra intends to emphasize the authority of Ezra. He is introduced to us (Ezra 7:1–5) as one whose genealogy is carefully traced, generation by generation through seventeen generations to Aaron, the first priest. He is described as a brilliant scholar and, most importantly, as one to whom King Artaxerxes of Persia granted his every request (Ezra 7:6). Of course, the fact that these are not round numbers does not necessarily mean that they are accurate, but in view of Ezra's supreme position they should be taken seriously. However, after the establishment of an independent Judaean state by Simon Maccabee in 140 B.C.E. and especially after the annexation of large territories conquered by his successors, John Hyrcanus and Alexander Jannaeus, and the conversion to Judaism of the Idumaeans (*A.J.* 13.257) and Ituraeans (*A.J.* 13.318),[53] the population increased considerably.

Estimating crowds has to this day been a very hazardous business. Even Julius Caesar, as Henige[54] has pointed out, is guilty of exaggerating the number of his opponents, which ranges as high as 430,000 and often exceeds 100,000, and can hardly be used to estimate the population of ancient Gaul. Moreover, numbers are the most easily corrupted items in manuscripts. In general, copyists are more likely to make a mistake with numbers than with other words, since if a copyist makes a mistake with an ordinary word, the reader may be able to correct it from the context, whereas numbers do not usually alter the meaning of a context and hence are not likely to be corrected. But ancient historians were not unaware of the tendency of poets to exaggerate numbers. Thus Thucydides (1.10.3) says that it is natural to suppose that Homer as a poet adorned and magnified the expedition of the Greeks to Troy; and yet he does not utterly dismiss

50 Harnack, *The Mission and Expansion of Christianity*, 1:8.

51 Jean Juster, *Les Juifs dans l'empire romain* (2 vols.; Paris: Geuthner, 1914) 1:210, n. 2.

52 Beloch, *Die Bevölkerung*, 248.

53 On these conversions see my *Jew and Gentile in the Ancient World*, 324–26.

54 Henige, "He Came, He Saw, We counted," 215–42.

such evidence but rather adopts a critical approach, adding,"Still, even on his showing, it was evidently comparatively small."

Josephus (*J.W.* 2.280) states that a crowd of no less than three million Jews implored the Roman governor Cestius Gallus, when he visited Jerusalem at Passover in 65 C.E., to have compassion upon them in view of the excesses of the procurator Florus. Can we take this number at all seriously? Price[55] takes the extreme position of doubting Josephus' numbers unless they are absolutely provable, which, of course, they never are. His number here may well have been a round figure; we find what appears also to be a similar round figure (*Ag. Ap.* 1.195) in connection with the area of Judaea, which Josephus gives as 3,000,000 arourae (approximately 1,500,000 acres or 234 square miles). Multiples of three are numerous in Josephus:[56] thus whereas, according to the Bible (1 Sam 15:4), the number of infantrymen enumerated by King Saul is 200,000 and the number of men of Judah is 10,000, Josephus (*A.J.* 6.134) follows the reading of most of the manuscripts of the Septuagint in doubling the number of infantrymen to 400,000 and tripling that of those from Judah to 30,000. Furthermore, whereas according to the Hebrew text the number of priests slain in Nob (1 Sam 22:18) is 85, and according to the Lucianic manuscripts of the Septuagint 350, and according to the other manuscripts of the Septuagint 305, and according to the Greek epitome 530, Josephus (*A.J.* 6.268) gives the number as 300, clearly a round number.[57] Again, he speaks of 3,000 infantry who accompanied him (*Life* 213); 300 quick-firers that the Jewish rebels had (*J.W.* 5.359); and 30,000 followers of the Egyptian false prophet who attacked a Roman garrison in Jerusalem during the procuratorship of Felix (*J.W.* 2.261).[58] If, as seems likely,

55 Jonathan J. Price, *Jerusalem under Siege: The Collapse of the Jewish State 66–70 C.E.* (Leiden: Brill, 1992) 205.

56 The number three is likewise a favorite of the rabbis. Thus we hear (*b.Meg.* 6b) that Rome covers an area of 300 parasangs (approx. 1200 miles) by 300. It has 300 markets corresponding to the number of days of the solar year. Moreover, the Palestinian Ḥama bar Ḥanina, who lived in the latter part of the third century, alluding to the constant wars between the Romans and the Germans and the constant turnovers of Roman emperors, remarks (*b.Meg.* 6b and *Mid. Gen Rabbah* 75.9) that there were 300 crowned heads in Germany and 365 chieftains in Rome; and every day they engage in combat and one of them is killed, so that they have the trouble of appointing a new king.

57 Elsewhere, the manuscripts of Josephus contain four different readings – 85 (obviously corrected to conform with the Hebrew text), 305 (the Latin translation, obviously corrected to conform with the Septuagint), 530 (the reading of the Greek epitome), and 385 (the reading of the three oldest, though not always the best, manuscripts of Josephus). The fact that Pseudo-Philo (63.3) agrees with manuscripts MSP of Josephus in giving 385 as the number supports this reading of Josephus.

58 The number three is likewise popular in exaggeration with the rabbis, as we see in the statement of Rabbi Ulla (*b.Meg.* 6b), that the city of Rome covers an area of 300 parasangs (approx. 1200 miles) by 300. It is said to have 300 markets corresponding to the number of days in the solar year. Moreover, it is said to have 3,000 baths.

this last is the Egyptian prophet who is mentioned in the Book of Acts (21:38), we find quite a discrepancy in the number, inasmuch as in Acts the number is merely 4,000.

Moreover, we can compare these numbers with the number of Jews present for Passover in 66. According to Josephus, the Roman governor Cestius Gallus (*J.W.* 6.422) in the year 66 ordered a count of the Jews to be taken by the chief priests and reported to the Roman emperor Nero. He noted that 255,600 lambs were slaughtered for Passover in that year. The size of crowds, as we have noted, is notoriously difficult to estimate, and hence scholars may object to the figure of three million in the crowd (*J.W.* 2.280) that implored the Roman governor Cestius Gallus in 65 C.E.; but 255,600 lambs that are slaughtered are more easily and more accurately counted, and the number is not a typically large number. Josephus remarks that since each lamb was consumed by no fewer than ten persons (*J.W.* 6.424), this gives a total of 2,556,000, and this did not include menstruous women and those who were defiled and who consequently were not permitted to partake of the sacrifice. Josephus himself (*J.W.* 6.425) gives the total as 2,700,000; but this is because, as he says, the number of people in a company often included as many as twenty. Beloch's comment[59] on this passage is that no intelligent person will believe such a figure, and he quotes the remark of Smith:[60] "The assertions that 3,000,000 were collected at the Passover, that a million perished in the siege, that 100,000 escaped, etc., are so childish that it is surprising that anyone could ever have repeated them." Rather, this is, he says, an indication of the boastfulness of Josephus and of the lack of critical ability of those who transcribed his work. Consequently, says Beloch,[61] one will view with justified distrust the other figures cited by Josephus. He then, in a remark that smacks of anti-Semitism, adds that when it comes to satisfying their own vanity Jews have always bragged.[62]

That this was a standard method of taking a census of the Jewish people may be seen from the fact that King Agrippa (probably Agrippa II), seeking to determine the number of Jews, likewise turned to the high priest, who, we are told (*b.Pesaḥ.* 64b), in an anonymous comment of the rabbis, took a kidney from each of the Passover sacrifices and found that there were 600,000 pairs of kidneys, excluding the kidneys of those who were unclean or were on a distant

59 Beloch, *Die Bevölkerung*, 246.

60 William Smith, *Dictionary of the Bible* (New York: Hurd and Houghton, 1868) 1025.

61 Beloch, *Die Bevölkerung*, 246.

62 On Beloch's views of Jews see Arnaldo D. Momigliano, "Giulio Beloch," *Dizionario Biografico degli Italiani* 8 (1966) 32–45; translated into English, "Julius Beloch," in G. W. Bowersock and T. J. Cornell, eds., *A. D. Momigliano: Studies on Modern Scholarship* (Berkeley: Univ. of California Press, 1994) 97–120 esp. 115–16; and G. W. Bowersock, "Beloch and the Birth of Demography," 373–79, esp. 375.

journey. Likewise, we are told, there was not a single paschal lamb for which more than ten people had not registered. This would indicate a total of six million Jews. This is clearly a round number, reminiscent of the 600,000 adult males who had left Egypt. But Josephus' number is not, like 600,000, a typically large number. Could Jerusalem have coped with the influx of so many? Why should Cestius Gallus have instructed the chief priests to take the census? Josephus (*J.W.* 6.422) himself says that Cestius Gallus was eager to impress Nero, who, he says, held the Jews in contempt, with the strength of Jerusalem. Consequently, we may conjecture, Cestius sought to stress the sheer multitude of the Jews and the difficulty that the Romans would have in overcoming them. Since Cestius was responsible for reporting the figure, we may wonder whether he may have exaggerated the number. However, we may note that at Nero's court his consort, Poppaea Sabina, was a God-fearer (*θεοσεβής*, *A.J.* 20.195), who had successfully pleaded on behalf of the Jewish embassy that had protested the order of Festus the procurator to pull down the wall that the eminent men of Jerusalem had erected to prevent the Jewish king Agrippa II from viewing doings in the Temple. Hence, it would seem unlikely that Cestius would have risked offending the Jewish masses by misrepresenting their number.

One guesses that Cestius was confident that the chief priests could be relied upon to give an accurate count, inasmuch as it would have been most inappropriate for them, as religious leaders, to do otherwise; in any case, it was a most unusual way to count the number of people. We are suspicious of round figures, but the number of paschal lambs is not a round figure; and lambs, especially for religious purposes, are more easily counted than people. McGing[63] asserts that to multiply the number of lambs slaughtered by ten to determine the number of people who partook of them seems quite arbitrary, but one is less likely to be wrong if he guesses that the number of people who partook of a lamb was more than ten. Indeed, Josephus must have had the experience each Passover of partaking of the paschal lamb, and he must have noted how many partook of the paschal lamb from which he ate.

Even Parkin,[64] who is extremely skeptical about taking seriously the population figures provided by ancient writers, on the grounds that they are regularly demographically impossible, does point out, as we have noted, that we must consider the author's source of information. By this criterion Josephus' statement as to the number of Jews counted by the chief priests should be taken more seriously. To be sure, the number refers to the crowd in Jerusalem rather than to the population of all of Palestine; but we may assume that the great majority of those in the crowd came from other parts of Palestine, especially the

63 McGing, "Population and Proselytism," 97.

64 Parkin, *Demography and Roman Society*, 65.

most populous region of Galilee, which is not far from Jerusalem, rather than from such regions as Asia Minor or Egypt or Babylonia, which were further away. But even if we do not accept Josephus' number as precise, surely he is telling us, and we should be prepared to accept, that the number was very great, especially since it is supported, as to magnitude, by the number in the crowd that met Cestius Gallus, and the number of those who perished in the war against the Romans.

Nevertheless, we may note that even though Thucydides (1.20) criticizes Herodotus, to be sure not by name, for inaccuracies, he does not criticize Herodotus' figures as to the size of the Persian expedition; nor, for that matter, do other historians, who criticize their predecessors' inaccuracies, criticize their exaggerations in numbers. Is this because ancient authors understood that fanciful numbers were part of the genre? If so, how can we explain that Thucydides criticizes Homer's but not Herodotus' exaggerted numbers? Is it true that Tacitus is not addicted to exaggeration? Is Tacitus' figure (*Hist.* 5.13.3) of 600,000 as the number of those besieged in Jerusalem a typical symbolic figure, since multiples of 600 were very popular? Thus we find in Josephus (*J. W.* 3.583) that the number of his infantry is 60,000, and his bodyguard consists of 600 picked men. Again, the number of men whom Josephus dispatched with his friend Jeremiah to the frontier of Galilee is 600 (*Life* 241). It is significant that Josephus (*J. W.* 5.569) similarly reports that the corpses of the lower classes thrown out through the gates of Jerusalem amounted to 600,000 and that of the rest it was impossible to discover their number. The number 600,000, being the approximate number of adult Israelites who made the exodus from Egypt (Exodus 12:37), is found no fewer than five times in Josephus (*A.J.* 2.214, 317; 3.196, 288; 4.11). Is not this number clearly inconsistent with Josephus' statement (*J. W.* 6.420) that the number of those who perished during the siege of Jerusalem was 1,100,000, of whom the majority were Jews but not natives of Jerusalem? Josephus' and Tacitus' figures do not agree, but note should be made of the fact that Tacitus says *accepimus*, that is, "we have heard," "we have been told," "we have learned," a clear admission on his part that he had not personally verified or checked the figures. He does not tell us from whom he obtained his figure; it may have been from someone who had fought under Vespasian and Titus, but he does not indicate that he had made any attempt to confirm it. Indeed, he had not been in a position to verify it, though he was not one to accept official propaganda unscrutinized, whereas Josephus was present during the time of the siege and thus had first-hand information.

Moreover, whereas 600,000 is a round number, 1,100,000 is not. If he were giving a round number we would have expected Josephus to say that the dead numbered more than a million. Furthermore, Josephus (*J. W.* 6.420) reports the nunber of those taken prisoner as 97,000. This is not a round number; it is found

nowhere else in Josephus[65] and deserves serious consideration; indeed, even Beloch[66] says that this number appears to be credible. It should be mentioned here, as Lo Cascio[67] remarks, that in general Beloch is hypercritical in his attitude in that he tends to accept the data of ancient sources only when they are consistent with his own interpretation. Again, we need not take Josephus' numbers at face value, but that does not mean that we should disregard the impression that he wishes to convey, namely that the number of Jews was very large, certainly as compared with their number in 586 B.C.E. Moreover, Tacitus specifically states that the total number of those besieged of every age and both sexes was 600,000, whereas Josephus says that the 600,000 were of the lower classes only. Furthermore, Tacitus does not say that all those who were besieged died. And yet, when it comes to estimating the number of those killed we may expect that the number would hardly be precise. However, the important point to be made here is not that we have a precise number but that we have an indication of its *magnitude* from two different sources, Josephus and Tacitus, that were clearly independent of each other.

The Number of Jews in Galilee

One way to estimate the number of Jews, at least in Galilee, where Josephus, as general in that area, should have had special knowledge, is to start with Josephus' statement (*J. W.* 2.583) as to the number of soldiers that he had managed to muster, namely 60,000 infantry and 350[68] cavalry, plus a bodyguard of 600.[69]

65 To be sure, 97,000 is, curiously, found elsewhere in Pseudo-Philo's *Biblical Antiquities* (31.2), where we read that of the army of Sisera there were slain 90 times 97,000 men. But, as I have noted (Prolegomenon in repr. of M. R. James, *The Biblical Antiquities of Philo* [New York: Ktav, 1971] cxvii), Josephus is speaking of the number of prisoners, whereas Pseudo-Philo is speaking of the number slain. Howard Jacobson, *A Commentary on Pseudo-Philo's Liber Antiquitatum Biblicarum* (2 vols.; Leiden: Brill, 1996) 2:847 adds the question as to why Pseudo-Philo would want to associate Sisera's soldiers with the Jewish captives. Moreover, the fact that Pseudo-Philo says that the number was ninety times 97,000 instead of giving the total, 8,730,000, indicates that this is merely a large number.

66 Beloch, *Die Bevölkerung*, 248.

67 Lo Cascio, "The Size of the Roman Population," 27. Lo Cascio here cites Beloch's comment ("Zur Bevölkerungsgeschichte des Altertums," *Jahrbücher für Nationalökonomie und Statistik* 68 (3.F.13) (1897) 323–24, on a passage in Galen (*De Propriorum Animi Cuiuslibet Affectuum Dignatione et Curatione* 5.49 [Kuhn]: "I do not attribute any special importance to this passage; all my conclusions stand even if we completely dismiss it. It simply happens to be in agreement with my system.").

68 Several of the manuscripts (VRC and the Latin version) read 250.

69 Elsewhere (*J. W.* 2.576) Josephus says that he had levied in Galilee an army of upwards of 100,000 young men; but Henry St. J. Thackeray, ed. and trans., *Josephus* (9 vols.; London: Heinemann, 1927) 2:547, explains the discrepancy between this figure and that of 60,000 (on *J. W.* 2.583) by suggesting that not all of the 100,000 were ready for action.

Avi-Yonah[70] suggests that, on this basis, the total population of Galilee would have been approximately 750,000. At the time when, after Herod's death, his kingdom was divided among his three sons, Peraea and Galilee produced a revenue of 200 talents (*J.W.* 2.95), whereas Herod bequeathed to Augustus 1,000 talents (*J.W.* 1.646), that is, five times as much as the revenue of Peraea and Galilee. If, as Avi-Yonah proposes, we now multiply the number of soldiers that Josephus mustered in Galilee by five, to take into account the size of their families, this suggests a total population for the entire land of Israel of 3,750,000. However, as Broshi[71] comments, this calculation is based on the credibility of Josephus' figure of 60,000, whereas this number is a stereotypical number, reminiscent of the 603,550 Israelite males who, according to the Bible, left Egypt (Num 1:46), and assumes that the population was evenly spread throughout Palestine. Moreover, evidence of the size of armies is problematic, as den Boer[72] points out, because we suspect that those who give the figures either exaggerate or minimize those numbers because of the position in which they happen to be, and also because, as we have noted, variations in number are particularly frequent in manuscripts. Thus Josephus himself gives the number of soldiers whom he had mustered in Galilee as over 100,000 (*J.W.* 2.576) and, in apparent contradiction, as 60,000 (*J.W.* 2.583). Moreover, since Josephus covers some of the same material in the *Jewish War* and in the *Antiquities* we find discrepancies in numbers between the two works. Thus in the *Jewish War* (2.97) we are told that the revenue of the territory given by Augustus to Archelaus was 400 talents, whereas in the *Antiquities* (17.320) the amount is 600 talents. In the *Jewish War* (2.100) we are told that Augustus gave to Herod's children 1000 talents; this becomes 1500 talents in the *Antiquities* (17.323).

Furthermore, Josephus, who as general in Galilee should have had some knowledge as to the number of Jews in the area assigned to him, writes (*Life* 235) to Jonathan and his fellow deputies, who, having been sent by the Jerusalem authorities, had arrived in Galilee, that there were 204 cities and villages in Galilee. Elsewhere (*J.W.* 3.41–43), in his extensive description of Galilee, Josephus, apparently aware that people would doubt such figures, explains that though its area is limited, the land is so rich in soil and pasturage that even the most indolent are tempted to devote themselves to agriculture. In fact, he remarks, every inch of the soil has been cultivated by the inhabitants, so that there is not a single parcel of wasteland. He notes (*J.W.* 3.43) that the towns and even the villages, thanks to the fertility of the soil, are so densely populated that the smallest of them contains more than 15,000 inhabitants. If we multiply 204 by 15,000 this gives a minimum of 3,060,000 inhabitants.

70 Michael Avi-Yonah, "Palaestina," PW, Supplementband 13 (Munich: Druckenmüller, 1973) 429.

71 Magen Broshi, "The Population of Western Palestine in the Roman-Byzantine Period," *BASOR* 236 (1979) 6.

72 W. den Boer, "Demography in Roman History: Facts and Impressions," *Mnemosyne* 26 (1973) 30.

There is general suspicion that these figures are grossly exaggerated. The number 15,000 may be a round number; and indeed we find it twice (*J. W.* 3.305, 4.435) in connection with the number of Jews killed by the Romans in specific battles. But the number 204 is not a round number and is found in Josephus only here. As Baron[73] has pointed out, there is a basic difference in population distribution between antiquity and modern times in that we think of only highly industrialized countries as being thoroughly urbanized and of agricultural states as largely rural and possessing relatively few towns, most of them very small. However, as Beloch[74] remarks, people in antiquity regarded themselves as inhabitants of towns even if they did not reside within its walls. Indeed, a city consisted of a rural hinterland and an urban center, where the community had its administration and religious cults.[75] Even Rome and other so-called agro-towns[76] apparently contained within their walls only a fraction of their populations. Indeed, most of the inhabitants of many towns were actually farmers who lived within the walls of towns for security reasons. Moreover, a substantial proportion of rural population was not involved in farming or was involved in it only part-time. Thus, as Beloch[77] has noted, ancient Egyptian sacred writings mention 18,000 towns; other documents mention 30,000 or more towns under Ptolemy I (323–283 B.C.E.). Such figures seem to be highly exaggerated, since, as Baron admits, such a number, when we consider the area of Egypt that is habitable, would require that there be one township per square kilometer. Indeed, according to Hecataeus of Abdera (ca. 300 B.C.E.), as cited by Diodorus, there were 3,000 cities in Egypt. Furthermore, Scipio the Younger, when he visited Egypt in the reign of Ptolemy VII in the second century B.C.E., was, according to Diodorus, amazed at the large number of cities.

Moreover, the census material from Egypt[78] suggests that similar calculations must have been made for other parts of the Roman Empire, including the province of Syria. These figures surely need not be taken literally, and neither need we take Josephus' statement literally as to the number of cities in Galilee; but such observations indicate that the number of cities was, indeed, very large. Apparently, there is a long history of numerous towns in Palestine, as we see from the mention of 118 or 119 towns, most of them in Palestine, in a list dating from the reign of the Egyptian king Thutmoses III in the fifteenth

73 Baron, "Israelitic Population," 45.

74 Beloch, *Die Bevölkerung*, 472.

75 See N. J. G. Pounds, "The Urbanization of the Classical World," *Annals of the American Association of Geographers* 59 (1969) 135–57; and Finley, *The Ancient Economy*, in his chapter on town and country, 123–49.

76 See Elio Lo Cascio, "The Population of Roman Italy in Town and Country," in Bintliff and Sbonias, eds., *Reconstructing Past Population Trends*, 164.

77 Beloch, *Die Bevölkerung*, 255, cited by Baron," Israelitic Population," 45.

78 Bagnall and Frier, *The Demography of Roman Egypt*, 53–57.

century B.C.E. Of course, some of these towns may have been destroyed, but, as Baron[79] remarks, we know of only one town, Jericho, that ceased to exist after its conquest; and, in general, there is an increase in the number of towns. Moreover, there is no indication, except in the statistic given by Josephus, as to the population of each of these towns. But we may expect that the information existed that might have allowed Josephus to give the kind of figures that he cites for the number of towns, even if we are skeptical as to the number of inhabitants in each of them. That the number of towns may not be exaggerated would seem to be indicated by the fact that Cassius Dio (69.14.1) states that two generations later (132–35), during the Bar Kochba rebellion, 985 of the Jews' most famous villages were razed to the ground.

Scheidel[80] suggests that whether or not there were 204 settlements in Galilee, it is extremely unlikely that the smallest of them could have contained 15,000 inhabitants. If Galilee covered approximately 1,500 square kilometers, the implied population density for 3,060,000 inhabitants would have been 2,000 people per square kilometer, which is roughly one third of the current population density of Singapore and Hong Kong, largely urbanized city-states that do not grow their own food, as the inhabitants of Galilee did. It would also be about ten times the average population density of Roman Egypt,[81] which was apparently more fertile than Galilee. In the Fayum in the Ptolemaic period there was a mean of 312 adults in a sample of 53 villages. It seems unlikely that the smallest Galilean village could have been so much more populous. 15,000 and 30,000 are standard numbers, being multiples of three. 15,000 might be the number for a small city; and 30,000, another multiple of three, might be the number for a large city. It would seem, therefore, unwarranted to take Josephus at face value in his statement concerning the population of Galilee; but that does not mean that we should totally disregard the import of his numbers. Beloch[82] takes seriously Josephus' statement (*J. W.* 2.576) that when he came as general to Galilee he levied an army of more than 100,000 men. Assuming as he does that such an army would represent approximately one fourth of the total population of Galilee, he estimates a population of 400,000, approximately 125 per square kilometer. This, he admits, would mean that Galilee was very densely populated, but he then adds that Galilee was a very fruitful land, the richest in Palestine; and hence such a population is possible. For each of the 204 towns that Josephus says existed in Galilee Beloch is willing to assume 2000 inhabitants. This will give Galilee a population of 408,000.[83] Noting that, according to Cassius Dio (69.14),

79 Baron, "Israelitic Population," 47.

80 Letter, 3 December 2002.

81 Scheidel, "Progress and Problems in Roman Demography," 57–59.

82 Beloch, *Die Bevölkerung*, 246.

83 Fritz M. Heichelheim, in Tenney Frank, *An Economic Survey of Ancient Rome* (5 vols.; Baltimore: Johns Hopkins Univ. Press, 1938) 4:158–59, suggests 400,000 on the authority of Beloch, *Die*

580,000 Jews were slain in the Bar Kochba rebellion, in addition to those who died of sickness and hunger, he posits a population for Palestine of two million.[84]

Baron notes that in the 1880's Baghdad had one inhabitant per 33 square meters, Jerusalem one per 35, and Jaffa one per 30. Basing himself on the size and number of its houses in the Canaanite period, he estimates the population per town at 1,000 to 1,500 and at most 2,000, a ratio of approximately one inhabitant per 20–40 square meters. Since a city with such a population was apparently considered important, Baron concludes that the great majority of towns had a population of 1,000 or less. Jerusalem had a larger population. The wall surrounding it, according to Hecataeus, measured 50 stadia; according to the letter of Aristeas, 40 stadia; and according to Josephus, 33 stadia. Baron consequently suggests that the area of the city was about 300 hectares, approximately one third the size of Babylon, which may have had a population of 400,000 at the time of Nebuchadnezzaar; one third the size of Alexandria, which may have had a population of 380,000 under the early Roman emperors; and one fourth the size of Rome in the third century, which may have had a population of one million. Proportionately, Jerusalem would have a population of 200,000, a ratio of one person per 15 square meters.[85] Finkelstein,[86] drawing upon the Ottoman tax registers of the sixteenth century and the data collected during the Ottoman period at the end of the nineteenth century and during the British Mandate in the 1920's to 1940's as to the population and even the number of houses in Palestinian villages, concludes that one can estimate accordingly the size of the population that a given area can support.

But we must remark that there is a big question as to whether the figures given in these surveys are of adult males only or whether they include the entire population. We may also ask how many people a land can support with its agricultural production. Broshi,[87] on the basis of the level of cultivation of wheat, which is one of the major crops of Palestine, concludes that no more than a million people could have lived in Palestine in antiquity. Safrai,[88] however, notes that Broshi's estimate is based on wheat production in Arab farmsteads, whereas the average Arab farm did not make use of the available land at its disposal; thus the average Arab farm in the period before 1948 made use of only

Bevölkerung, 242–43. However, Chester C. McCown, "The Density of Population in Ancient Palestine," *JBL* 66 (1947) 426, says that even this estimate is too large, since it gives a density of over 320 to the square mile. We may, however, object that this is hardly excessive in view of the extraordinary fertility of Galilee.

84 Beloch, *Die Bevölkerung*, 248.

85 Baron, "Israelitic Population," 70.

86 Israel Finkelstein, "A Few Notes on Demographic Data from Recent Generations and Ethnoarchaeology," *PEQ* 122 (1990) 47–52.

87 Broshi, "The Population of Western Palestine," 1–10.

88 Zev Safrai, *The Economy of Roman Palestine* (London: Routledge, 1994) 436–37.

sixty per cent of its available farm land, and this itself was only 33.8 per cent of all available land. Moreover, there were additional terraces that may well have been destroyed over the centuries. In addition, we know that land that is taken care of properly can be far more productive than land that is neglected; and, indeed, to judge from the Talmud, the level of intensive production and its yields were much higher in Jewish farms. Archaeological excavations in the Negev of Palestine have shown that at one time it was far more productive than it has been until the most recent times. We may also remark (*A.J.* 14.206) that in the first century B.C.E., as noted in an agreement between Julius Caesar and Hyrcanus, the land was sufficiently productive to pay a tax of 20,675 modii (pecks), i.e. 182 tons, annually, except for the sabbatical year. Moreover, Ezekiel 27:17 mentions the export of wheat from Minnith (east of the Jordan River) to Tyre; Acts 12:20 states that Tyre and Sidon were dependent on Herod Antipas' country for food; and the Zenon Papyri (*Publicazioni della Società Italiana* 324–25), dating from the third century B.C.E., mention the export of wheat to Egypt.[89] We must also bear in mind that wheat was imported into Palestine from time to time, notably, of course, in times of drought, as we see in the successful efforts of Herod (*A.J.* 15.299–316) and Queen Helena of Adiabene (*A.J.* 20.51).

In the census of 1951 the average number of inhabitants per house in Palestine was found to be 4.35. However, a survey by Hirschfeld[90] of Arab houses in the Judaean hills concluded that the average number of inhabitants in a village house was sixteen. Broshi's surprising comment on the latter finding is that either unreliable information was given to the surveyors or that living conditions are simply primitive.[91] We may wonder how there would be sufficient grain produced for a large population, but we may note that during the period of Roman occupation, when the population of Egypt according to Josephus (*J.W.* 2.385) amounted to seven and a half million exclusive of Alexandria, the country was constantly exporting a large amount of produce to Rome. Similarly, Palestine exported not only fruits but grain. How many people were able to live in such a limited area as Galilee? But as Baron[92] has remarked, there is a difference between the Roman Empire in the East and the areas in the West. In the East a warm climate and other factors permit a very small dwelling. Furthermore, even Hamel,[93] who, taking into account the amount of grain that would

89 Cited by Broshi, "The Population of Western Palestine," 8, n. 24.

90 Yizhar Hirschfeld, *Dwelling Houses in Roman and Byzantine Palestine* (Heb.) (Jerusalem: Yad Yitzhak Ben-Zvi, 1987) 73.

91 Magen Broshi, review of Hirschfeld's *Dwelling Houses in Roman and Byzantine Palestine*, *Qadmoniot* (1987) 79–80, 126–27, cited by Finkelstein, "A Few Notes on Demograpic Data," 49.

92 Baron, "Israelitic Population," 69.

93 Gildas Hamel, *Poverty and Charity in Roman Palestine, First Three Centuries C.E.*, Near Eastern Studies, 23 (Berkeley: Univ. of California Press, 1990) 139.

have to be produced to support a population, concludes that the population of Roman Palestine – and this includes not only Galilee but also Judaea, Samaria, the coastal strip, and Idumaea – would theoretically have peaked at 1,150,000 inhabitants. He admits that against his own results it may be argued that archaeological surveys show an astonishing population level in the hills. Additionally, he admits that it may be maintained that the subsistence level of the time was actually lower than modern calculations indicate and that reliance on wild plants was more important than previously thought.[94]

What, then, Josephus is saying and what we should be prepared to accept is the impression that the number of Jews living in Galilee was very large, even if it was not three million. Even after the tremendous losses in the war of 66–70 against the Romans, the Jewish population of Palestine remained large. Cassius Dio (69.14.1), as we have noted, reports that during the Bar Kochba rebellion (132–35) 580,000 Jews were slain in raids and battles, and that the number of those who perished by famine, disease, and fire was past finding out. The number was very large even if we suspect that it was exaggerated. The Talmud (*b.Git.* 57b), seeking to convey some idea as to the number of fatalities in the war, states that the Romans, when they captured Bethar at the end of the revolt, killed in that city four hundred thousand myriads, that is four billion, "or as some say, four thousand myriads, that is forty million." Clearly these are utterly impossible exaggerations, but even so they are meant to convey some idea as to the huge number of those who were killed.

How to Explain the Increase in the Number of Jews

Unfortunately, for the period of 586 B.C.E. to 70 C.E. we have relatively few sources that give an indication as to changes in life expectancy or the size of families or the numbers lost in events such as plagues. Since, so far as we can tell, there was no major change in life expectancy or in the size of families during the period after the destruction of the first Temple, conversions would seem to be the most likely explanation for the vast increase in the number of Jews, at any rate in Egypt, where we have at least some information as to the

94 Another method for arriving at the population of Palestine in the Roman period is to note, as does Avi-Yonah, "Palaestina," 429, that there were in the Roman period four times as many settlements as there were in 1900, when there were 700,000 inhabitants; hence the population in the Roman period was 2,800,000. But as Broshi, "The Population of Western Palestine," 6, remarks, this is based upon the unproven assumptions that the number of settlements in the Roman period was four times as great and that the average size of the settlements in the two periods is approximately the same.

actual number of Jews.[95] In addition to those actually converted there were apparently many "God-fearers" ("Sympathizers"),[96] perhaps even more numerous than actual converts.

Cohen[97] contends that the existence of large numbers of converts to Judaism proves only that Jews and Gentiles lived in an open society and that Jews and Judaism were prominent enough to be noticed and respected by outsiders. McKnight[98] remarks that the surviving evidence from Philo and Josephus reveals that many Jews, especially those from landed families, were educated in the Greco-Roman manner, that Jewish children in Alexandria were educated in the encyclical, that Herod and his descendants had a Roman education, and that this was the kind of education that every aspiring politician would need. Similarly, he remarks that Jews regularly and consistently intermarried with women of other nations and religions. But there is no evidence that this was the path of more than a very small minority. It is certainly open to question whether Jews and Gentiles lived in an open society, as I have discussed elsewhere.[99] And even a glance at Menaḥem Stern's collection of all the references to Jews and Judaism in Greek and Latin literature will show how little the Jews were noticed, at least by intellectuals.[100]

Cohen[101] suggests that the single most important factor in the increase of Jewish population in antiquity must have been the conquests by the Maccabees, who by one means or another Judaized most of Palestine. But, as mentioned above, we know only of the allegedly forced conversion of the Idumaeans[102] by John Hyrcanus (Ptolemy the Historian, *ap.* Ammonius, *De Adfinium Vocabulorum Differentia*, no. 243; *A.J.* 13.257–58, 15.254–55) at the end of the second century B.C.E. and of the Ituraeans (*A.J.* 13.318) by Aristobulus I shortly thereafter. That both Hyrcanus and Aristobulus held the dual positions of religious leader as high priest and political leader as king meant that they might have sought

95 See Wasserstein, "Jews in Graeco-Roman Antiquity," 314–17.

96 See my *Jew and Gentile in the Ancient World*, 342–82.

97 Shaye J. D. Cohen, "Was Judaism in Antiquity a Missionary Religion?" in Mor, ed., *Jewish Assimilation*, 19.

98 Scot McKnight, "Proselytism and Godfearers," *Dictionary of New Testament Background* (Downers Grove, Ill.: InterVarsity Press, 2000) 835–47.

99 See my *Jew and Gentile in the Ancient World*, 3–83.

100 Menaḥem Stern, *Greek and Latin Authors on Jews and Judaism* (3 vols.; Jerusalem: Israel Academy of Sciences and Humanities, 1974–84).

101 Cohen, "Was Judaism in Antiquity a Missionary Religion?" 20. See also Peder Borgen, *Early Christianity and Hellenistic Judaism* (Edinburgh: Clark, 1996) 46–49.

102 For an extended, judicious discussion of the conversion of the Idumaeans see Aryeh Kasher, *Jews, Idumaeans, and Ancient Arabs: Relations of the Jews in Eretz-Israel with the Nations of the Frontier and the Desert during the Hellenistic and Roman Era (332 BCE–70 CE)* (Tübingen: Mohr Siebeck, 1988) 46–77.

both religious and political conquest. The fact, however, that in the vast rabbinic literature and especially in the many and long discussions about the requirements for conversion and about which converts may or may not be accepted (*b.Yebam.* 16a–b, 22a, 23a, 24b, 25b–26a, 34b–35a, 37a, 42a, 46a–48b, 74b–75a, 98a–b, 99a) there is no reference to the forced conversion of the Idumaeans or of the Ituraeans casts some doubt upon the accounts. Bamberger,[103] noting that after Josephus no later Jewish sources speak of these forced conversions, explains this silence as due to the unpopularity of the later Hasmoneans and the disasters caused by Antipater and Herod, who were Idumaeans by birth; but, we may remark, the rabbis are not silent about the later Hasmoneans, including John Hyrcanus (*b.Ber.* 29a, *b.Sotah* 33a) and yet do not mention these conversions. But even if the report is accurate, the number thus converted can hardly begin to account for the vast increase in Jewish population. It is this kind of mass conversion, though not forced but rather motivated by fear of the Jews, that we find mentioned at an earlier time in the book of Esther (8:17), where we read that after the downfall of Haman many Persians, though there is no indication of how many, converted to Judaism.

As to the Idumaeans, Ptolemy the Historian (*ap.* Ammonius, *De Adfinium Vocabulorum Differentia*, no. 243) says that they were not originally Jews but Phoenicians and Syrians, and that after being subjugated by the Jews "they were forced (*ἀναγκασθέντες*) to undergo circumcision, so as to be counted among the Jewish nation and keep the same customs."[104] Josephus (*A.J.* 13.257–58) likewise indicates that they were given a choice of either converting or of leaving their country. He says that John Hyrcanus, after subduing all the Idumaeans, "permitted them to remain in their country so long as they had themselves circumcised and were willing to observe the laws of the Jews. And so, out of attachment to the land of their fathers, they submitted to circumcision and to making their manner of life conform in all other respects to that of the Jews. And from that time on they have continued to be Jews." Elsewhere (*A.J.* 15.254) Josephus again mentions that Hyrcanus converted (*μεταστήσαντος*) the Idumaeans to Jewish customs (*ἔθη*) and laws (*νόμιμα*), though he does not actually use the word "forced."

Apparently not all the Idumaeans agreed with the conversion, since Josephus (*A.J.* 15.255) asserts that Costobar, an Idumaean whom Herod appointed to be governor of Idumaea, did not think that it was proper for the Idumaeans to adopt the customs (*ἔθη*) of the Jews and to be subject to them. Strabo (16.2.34) says that they joined (*προσεχώρησαν*, "went over to," "sided with") the Judaeans,

103 Bamberger, *Proselytism in the Talmudic Period*, 20.

104 If, indeed, Ptolemy the Historian is to be identified with the Ptolemy the grammarian who came from Ascalon, he may well have shared the hatred that the Hellenistic cities of Palestine had for the Hasmoneans. See Stern, *Greek and Latin Authors on Jews*, 1:355 and Kasher, *Jews, Idumaeans, and Ancient Arabs*, 69–70.

presumably voluntarily, and shared in the same customs with them. The fact that Strabo, who is so antagonistic toward the Hasmoneans, referring to them as tyrants and robbers (16.2.37 and 40), does not refer to the forcible conversion of the Idumaeans would appear to suggest that Hyrcanus had not used force. Kasher[105] suggests that one should speak of the annexation of Idumaea rather than of its conquest, since the Idumaeans shared with the Jews a common hostility to the Hellenistic cities and to the Seleucids. This would seem to be supported by Strabo's statement that the immediate factor leading to the adoption of Judaism by the Idumaeans was their banishment owing to a sedition that is otherwise unknown.[106]

A key argument in favor of the voluntary conversion of the Idumaeans is the fact that not long after the conversion Alexander Jannaeus appointed the Idumaean Antipas, Herod's grandfather, as *strategos* for all of Idumaea (*A.J.* 14.10) – an unusual degree of trust if Antipas had only recently accepted Judaism unwillingly.[107] As to why Josephus, who is otherwise so strongly opposed to forcible conversion, should have mentioned it here, we may suggest that he may have drawn from a source that was hostile to the Hasmoneans, most likely Nicolaus of Damascus,[108] who was the right-hand man of Herod, who so hated the Hasmoneans. Moreover, the Idumaeans had apparently been observing the practice of circumcision long before the conquest by John Hyrcanus.[109] We may remark that the fact that the Bible itself (Deut 23:8–9) specifies that an Edomite (Idumaean) may not become a proselyte until the third generation and that the rabbis (*b. Yebam.* 68a, 69a, 76a) reiterate this prohibition, noting that if an Idumaean proselyte cohabits with a Jewish woman this disqualifies her and her children, would make it unlikely that the Hasmoneans, who, in general, were aware of Jewish sensibilities, would have dared to violate the clear sense of Scripture.[110]

105 Kasher, *Jews, Idumaeans, and Ancient Arabs*, 46–47.

106 As to the claim that Strabo's evidence should be invalidated, since he mistakenly identifies the Idumaeans as Nabataeans (16.2.34), this is the kind of error that is easily made, since the Nabataeans were a people that apparently incorporated several tribes. Indeed, the same error is made by Diodorus (19.48 and 68).

107 So Kasher, *Jews, Idumaeans, and Ancient Arabs*, 66; and Peter Richardson, *Herod: King of the Jews and Friend of the Romans* (Columbia: Univ. of South Carolina Press, 1996) 55.

108 Indeed, Josephus (*A.J.* 13.251) quotes Nicolaus very shortly before he mentions the conversion of the Idumaeans (*A.J.* 13.257).

109 See Kasher, *Jews, Idumaeans, and Ancient Arabs*, 66–67.

110 As to why Josephus, who was proud of his Hasmonean ancestry (*Life* 2–4) and who is so strongly opposed to forced conversion to Judaism (*Life* 113) should have depicted the Hasmonean John Hyrcanus as forcing the Idumaeans to convert to Judaism, Steve Mason, ed., *Flavius Josephus: Translation and Commentary* (Leiden: Brill, 2001) vol. 9, *Life of Josephus*: 75 n. 544, correctly notes that the Hasmoneans, in their concern to establish a strong and independent state, were adding territory to Judaea and always gave the conquered the choice of leaving if they would not convert (*A.J.* 13.319).

As for the conversion of the Ituraeans, our source is a third-hand account, found in a fragment of the first century B.C.E. Timagenes, which is cited in a lost work by Strabo, who in turn is cited by Josephus (*A.J.* 13.319). The fragment says that Aristobulus I brought over (ᾠκειώσατο, "made kinsmen," "made friends") to the Jews a portion (μέρος) of the Ituraean nation, whom he joined (συνάψας) to them by the bond of circumcision. In the first place, we must remark that Timagenes says that Aristobulus brought over only a portion of the Ituraeans and with no indication as to how big or small a portion was involved. Secondly, it is important to note that there is no indication that he used force in doing so; in fact, Strabo refers to Aristobulus as having a kindly (ἐπιεικής, "fitting," "suitable," "reasonable," "fair," "moderate," "considerate," "gentle," "peaceable") nature and clearly implies that the conversion was done in a friendly fashion. It is Josephus who says that Aristobulus compelled (ἀναγκάσας) the inhabitants, "if they wished to remain in the country, to be circumcised and to live in accordance with the laws of the Jews." Thirdly, there is no indication as to whether the Ituraeans wholeheartedly converted to Judaism or whether they underwent a superficial conversion.[111] Fourthly, we should note that the Ituraeans inhabited the area of Lebanon.

Those scholars, such as Schürer,[112] who argue that it was Galilee that was Judaized by Aristobulus, let alone that it was all of Galilee (and thus, presumably, would explain the huge concentration of Jews in Galilee according to Josephus [*J.W.* 3.43, *Life* 235]), go against the geographical fact that Ituraea is considerably north of Galilee. Moreover, the continuous occupation by Jews of Galilee had never been wholly interrupted. In particular, we may note that Alexander Jannaeus, the brother of Aristobulus, was educated in Galilee during their father's lifetime (*A.J.* 13.322), as Stern[113] has remarked. Moreover, as Stern[114] notes, according to Josephus (*A.J.* 13.337), Ptolemy Lathyrus deliberately attacked the Galilean township of Asochis on Saturday in approximately the year 102 B.C.E., a mere year or two after the death of Aristobulus. This would imply that Lathyrus assumed that the Jews were so staunchly religious that they would refuse to fight on the Sabbath, a fact that is hardly compatible with the view that they had so recently been compelled to become Jews.[115]

111 See Mark A. Chancey, *The Myth of a Gentile Galilee* (Cambridge: Cambridge Univ. Press, 2002) 44–45.

112 Emil Schürer, *The History of the Jewish People in the Age of Jesus Christ (175 B.C.–A.D. 135)*, revised by Geza Vermes and Fergus Millar (3 vols.; Edinburgh: Clark, 1973) 1:218.

113 Stern, *Greek and Latin Authors on Jews*, 1:225.

114 Stern, *Greek and Latin Authors on Jews*, 1:225.

115 Most recently, Steven Weitzman, "Forced Circumcision and the Shifting Role of Gentiles in Hasmonean Ideology," *HTR* 92 (1999) 37–59, believes that John Hyrcanus did convert the Idumaeans by force and that Aristobulus I did convert the Ituraeans by force. He presents the challenging thesis that just as Mattathias imposed circumcision on Jews, Hyrcanus and Aristobulus extended this practice to Gentiles under their control and that since their anti-Gentile policies limited the

If we ask what other sources there were for the increased numbers of Jews, we may suggest that part of the increase resulted from the conversion of slaves in Jewish households. Such a conversion must have been desirable in order to avoid the danger of pollution to food handled by non-Jewish slaves.

Philo (*Mos.* 2.36), gives us another clue. He says that the purpose of the translation of the Pentateuch into Greek was that the *laws* should not be denied to non-Jews. This would indicate a *goal* of nothing less than actual conversion to Judaism, though, of course, it does not tell us how many were *actually* converted. What is particularly important is that there was an annual commemoration of the translation to which not only Jews but also, according to Philo, multitudes of others came from overseas. Philo says that he envisaged a world in which all mankind would abandon their ancestral ways and turn to honoring the laws of Jews.[116] Inasmuch as the Noahides do not abandon their ancestral ways but merely observe seven additional commandments, this cannot refer to the Noahides, especially since Philo envisages mankind honoring *our laws alone*. This does not mean that Jewish missionaries operated on the island of Pharos at these annual meetings. What it does mean is that Jews held open their doors to those who wished to convert and were delighted when such conversions occurred.

That the Jews welcomed converts may be seen, moreover, in Philo (*Virt.* 226

supply of human capital available to the state they disguised the absorption of local non-Jews in order to retake the land for Judaism. However, as we have noted, Strabo's language certainly does not indicate that force was applied. If, indeed, as Weitzman suggests, the Hasmoneans were motivated by anti-Gentile zeal, surely converting the Gentiles by force was a very dangerous move, since people thus converted are likely to make things difficult for their oppressors. The question, to be sure, still remains why Josephus, who elsewhere (*Life* 113 and *J.W.* 2.454) strongly disapproves of forced conversion, should have altered the language of Strabo, who does not speak of forcible conversion. One possible answer is that Josephus felt that where there was a matter of national security the Romans would have understood that such an action might have been justified, whereas in the case of *Life* 113 and *Jewish War* 2.454 the forcible conversion was not being done by a legitimate government but by some zealots. Josephus must have felt that the Romans had nothing to fear from the use of force against peoples who were not allies of the Romans, especially when the Hasmoneans, who used such force, were allies of the Romans and had been such for some years. Weitzman (42–43, n. 24) asserts that Josephus is inconsistent in omitting the circumcision of the Shechemites in the affair of Dinah (*A.J.* 1.337–40); but, we may remark, that is not because he was opposed to forcible conversion. Rather, he was embarrassed by the fact that the Israelites were guilty of breaking a pledge, a very serious matter to the Romans, that they had made to the Shechemites to permit the marriage of Dinah to the Shechemite prince if they would all be circumcised. As to the decline in population, there is no evidence, as Weitzman (53–54) admits, that there was such a decline; and, as we have suggested, there is reason to think that there was actually a considerable increase in population. And if there was a manpower shortage because of insurrections by the Jews themselves, the Hasmonean kings could and did hire mercenaries. Finally, the Hasmonean kings had no need to worry about a manpower shortage, since they had the greatest buttress of support for their security, namely the backing of the Romans.

116 See my *Jew and Gentile in the Ancient World*, 313–14.

and elsewhere) and Josephus (*Ag. Ap.* 2.282 and elsewhere), as I have noted.[117] Josephus (*J.W.* 7.45), for example, remarks that the Jews of Antioch were constantly (ἀεί) attracting to their religious ceremonies a great multitude (πολὺ πλῆθος) of Greeks; and they had, in some measure, incorporated them with themselves.

I have likewise indicated that the rabbis were, on the whole, favorably disposed toward converts.[118] It is particularly important to note that, according to rabbinic tradition (*b. Yebam.* 47a–b), no undue obstacles are to be placed in the path of a candidate for conversion, and that, indeed, the process is actually speeded up. Thus we are told: "If, at the present time, someone desires to become a proselyte, he is to be addressed as follows: 'What reason have you for desiring to become a proselyte? Do you not know that Israel at the present time are persecuted and oppressed, despised, harassed and overcome by afflictions?' If he replies, 'I know and yet am unworthy,' he is accepted *forthwith* [my italics]." Moreover, that he is not expected before conversion to know and to obligate himself to observe all the commandments is clear from the fact that he is then given instruction in *some* of the minor and *some* of the major commandments. We are told that he is not to be persuaded or dissuaded too much. Finally, if he is accepted, he is to be circumcised forthwith. As soon as he is healed, arrangements are made for his immediate ablution.

Furthermore, there is a special blessing for righteous proselytes in the Amidah prayer (*b. Meg.* 17b) that is recited three times daily. The rabbis, moreover, took pride in the claim that the Emperor Nero (*b. Giṭ.* 56a) and even, according to some (*y. Meg.* 3.2.74d), the Emperor "Antoninus," were proselytes and that some of their greatest teachers were said to be descended from proselytes – Shemaiah and Avtalion (*b. Sanh.* 96b, *b. Giṭ.* 57b), Rabbi Akiva (*b. Sanh.* 96b, *b. Giṭ.* 57b),

117 See my *Jew and Gentile in the Ancient World*, 293–98, 318–22.

118 See my *Jew and Gentile in the Ancient World*, 338–41. To be sure, there are a few negative statements about proselytes. Indeed, in the words of Josephus (*Ag. Ap.* 2.123), "Many of them [the Greeks] have agreed to adopt our laws; of whom some have remained faithful, while others, lacking the necessary endurance, have again seceded." In rabbinic literature we find the statement of Rabbi Ḥelbo (*b. Yebam.* 47b, *b. Qidd.* 70b, *b. Nid.* 13b), who lived at the end of the third and at the beginning of the fourth century, that proselytes are as burdensome for Israel as a leprous scab on the skin. Of similar import is the statement of the third-century Rabbi Ḥiyya (*Mid. Ruth Zuta* on 1:12): "Do not have faith in a proselyte until twenty-four generations have passed, because the inherent evil is still within him." In particular, we find a criticism (*b. Yebam.* 24b) of those who convert for the sake of marriage or because of fear or for ulterior economic motives. Such statements were perhaps occasioned by the fact that some proselytes had turned out to be insincere (*b. Avod. Zar.* 3b) or had become renegades and that they delay the coming of the Messiah (*b. Nid.* 13b). The very vehemence and repeated citation of such statements indicates that non-Jews were converting and that this was apparently a subject of debate. But the positive statements about proselytes are clearly in the majority. See the conclusion of Bamberger, *Proselytism in the Talmudic Period*, 145–46; and my *Jew and Gentile in the Ancient World*, 338–39.

Aquila-Onkelos (*b.ʿAbod. Zar.* 11a), and Rabbi Meir (*b.Giṭ.* 56a).

I have also noted[119] that resentment was aroused against these conversions, as seen in the writings of the New Testament (Matthew 23:15), Horace (*Satires* 1.4.142–43), Seneca the Younger (*ap.*, Augustine, *De civitate Dei* 6.1), Tacitus (*Histories* 5.5.1–2), and Juvenal (*Satires* 14.96–106). Moreover, as I have remarked, the success of the Jews in winning converts led to their expulsions from Rome on at least two occasions.[120]

How to Explain Proselytism When We Have No Missionary Tracts and Know of No Missionaries

Tcherikover,[121] in a seminal article, has questioned the concept of a concerted Jewish literary propaganda in the interests of conversion. He challenges the view that Jewish literary propaganda among the pagans was technically possible and that the distribution of books in the ancient world was similar to that of modern times; but literacy was apparently much more widespread than we usually think.[122] To be sure, we have found no such tracts in papyri; but papyri are what were discarded. Schools are responsible for most papyri, and the Septuagint was not read there. Moreover, most of our literary papyri come from the little town of Oxyrhynchus, which may not be representative.

Cohen[123] argues that if Greek Jewish literature was designed for a pagan audience, it failed miserably and that pagans did not read Jewish literature. There can be no question, however, that Gentiles, as well as Jews, are addressed by some of the works of Philo[124] and of Josephus,[125] the two chief Jewish writers in Greek from the Hellenistic period; but this does not, of course, mean that the works of Philo and Josephus were missionary treatises. What it does mean is that a non-Jewish reader might have been impressed with the religion that they describe. Indeed, it is also true that these writers, if we may judge from citations in later writers, were little read in antiquity. But this tells us only that pagan intellectuals did not generally read these works; it does not, however, tell us about the reading habits of pagan non-intellectuals. Moreover, most of those converted were probably illiterate and, in any case, were probably converted

119 See my *Jew and Gentile in the Ancient World*, 299–300.

120 See my *Jew and Gentile in the Ancient World*, 300–304.

121 Victor Tcherikover, "Jewish Apologetic Literature Reconsidered," *Eos* 48 (1956) 169–93.

122 See William V. Harris, *Ancient Literacy* (Cambridge, Mass.: Harvard Univ. Press, 1989) 121, 206, 255–59, and esp. 282; and my *Jew and Gentile in the Ancient World*, 305–11.

123 Cohen, "Was Judaism in Antiquity a Missionary Religion?" 17.

124 Georgi, *The Opponents of Paul*, 182, concludes that both Jews and Gentiles are being addressed throughout Philo's works.

125 See my *Josephus's Interpretation of the Bible* (Berkeley: Univ. of California Press, 1998) 146–50.

by oral contacts, though not necessarily by organized efforts.

One concrete instance where reading the Bible did have an effect upon a candidate for conversion is to be seen in the account of the conversion of Izates, the king of Adiabene, who decided to be circumcised after being told by the Jew Eleazar that he ought to do more than read the Bible (*A.J.* 20.44–46).

Josephus (*A.J.* 1.9), in the introduction to his paraphrase of the Bible and in citing the precedent of the Septuagint, says that he "took into account, not incidentally, both whether our ancestors were willing to transmit and whether some of the Greeks were eager to know about our affairs." Indeed, the very fact that he paraphrases at such length (*A.J.* 12.11–118) the *Letter of Aristeas*, with its account of the Septuagint, which, at most, is very tangential to Jewish history, is, in effect, an advertisement for the Bible. Thus Josephus (*A.J.* 12.110) remarks that King Ptolemy Philadelphus was amazed at the wisdom of the lawgiver Moses and asked Demetrius, his adviser, how it was that none of the historians or poets had made mention of it, whereupon Demetrius replied that it was because of the divine and awful nature of the laws, and that some who had already attempted to do so had been afflicted by God.

Indeed, one might well argue that to some degree Josephus' *Antiquities* was, in effect, a propagandistic tract, with its portrait of Abraham as a scientist and philosopher and an open-minded thinker, and with its portrait of Moses as a great general.[126] Likewise, the Sibylline books, dating from the second century B.C.E., stress (3.195) that Judaism's aim is to be to all mortals the guide of life.

Again, the Pseudepigraphic *Joseph and Asenath*, dating apparently from the early part of the second century C.E., presents the paradigm of the proselyte who cannot marry Joseph so long as she is a heathen, whereas she can and does do so as soon as she converts to Judaism.[127] However, most importantly, as McKnight[128] stresses, it is Asenath who takes the initiative in seeking conversion to Judaism,

126 See my *Josephus's Interpretation of the Bible*, 223–89, 374–442.

127 On *Joseph and Asenath* as missionary propaganda see Victor Aptowitzer, "Asenath, the Wife of Joseph: A Haggadic Literary-Historical Study," *HUCA* 1 (1924) 305–6; Marc Philonenko, *Joseph et Aséneth* (Leiden: Brill, 1968) 106–7; and George W. E. Nickelsburg, *Jewish Literature between the Bible and the Mishnah: A Historical and Literary Introduction* (Philadelphia: Fortress, 1981) 262. Ross S. Kraemer, *When Aseneth Met Joseph: A Late Antique Tale of the Biblical Patriarch and His Egyptian Wife, Reconsidered* (New York: Oxford Univ. Press, 1998) 6 asserts that there is no evidence that the work was ever transmitted by Jews or circulated among Jews, let alone composed by Jews and that there is no evidence for dating it any earlier than the fourth century. But a work in which Asenath turns from dead gods to the living God can be only a Jewish or a Christian work; and if it is a Christian work it would be remarkable that there would be no reference to Jesus as Messiah. The reference (8:5) to pagan food, drink, and oil as tokens of death is clearly a contrast with Jewish views. That Asenath's conversion is to Judaism is clear, as Barclay, *Jews in the Mediterranean*, 204–16, points out in his careful analysis.

128 Scot McKnight, *A Light among the Gentiles: Jewish Missionary Activity in the Second Temple Period* (Minneapolis: Fortress Press, 1991) 60–62.

and it is not Joseph who seeks her out.[129] Philo (*Spec.* 1.320) seems to allude to propagandizers, since he berates the mystics who restrict their knowledge to three or four alone instead of proceeding to the midst of the marketplace so that every man might share in securing a better and happier life. He urges people (*Spec.* 1.321) to walk in the daylight through the midst of the marketplace, "ready to converse with crowded gatherings." But the fact that Philo is speaking of mystics would seem to indicate that it is Judaism as a philosophy and as a mystery that is being spread; and it is not necessarily to non-Jews that it is being spread; rather, it is admittedly more likely that it is being spread to fellow Jews who are as yet uncommitted.

We do not know the name of a single missionary, unless we regard Eleazar (*A.J.* 20.43), who urged Izates to be circumcised, as one. But there it is King Izates of Adiabene who had taken the initiative to be interested in the Jewish religion and who had been zealous to convert, and it was his mother Helena who had tried to stop him by telling him that it was a dangerous move that would cause much disaffection among his subjects.

Why Did People Convert to Judaism?

We have very few statements as to why people converted to Judaism. One reason why people converted to Judaism was that they were impressed by the apparent miracles that had been wrought by God on behalf of the Israelites and by the outstanding leadership of Moses. The Bible (Exod. 12:37–38) simply indicates that the number of those Israelite men who left Egypt was six hundred thousand and that a mixed multitude (ערב רב) went up with them. Philo (*Mos.* 1.147) emphasizes the mixed nature of the multitude whom Moses led, the clear implication being that it was extremely difficult to unify such a diverse group. In Philo's

129 Randall D. Chesnutt, "The Social Setting and Purpose of Joseph and Aseneth," *JSP* 2 (1988) 21–48, argues against the thesis that *Joseph and Asenath* was a missionary tract, stressing that the author presupposes too much in assuming that his readers are familiar with the biblical story of Joseph as well as with other patriarchal narratives; but the fact that the story is told from the point of view of the proselyte Asenath indicates that it is written for a Gentile audience. Even Chesnutt agrees, moreover, that the central purpose of the treatise is to enhance the status of Gentile converts in the Jewish community. The fact that there is no mention in the work of Asenath's undergoing immersion, a rite that the rabbis insisted upon for conversion (*b. Yebam.* 46a), is no proof that she did not become a convert, inasmuch as even in that rabbinic passage there is a dispute in which the first-century Rabbi Eliezer ben Hyrcanus held that circumcision alone without immersion is sufficient to qualify a Gentile as a convert. Moreover, though there are many references to conversion in the works of Philo and especially Josephus, there is no mention anywhere of immersion of proselytes. In particular, since Josephus goes to such lengths to describe the strict requirements for conversion that were insisted upon in the case of Izates (*A.J.* 20.38–48), his silence about immersion would seem to indicate that immersion was not yet a customary, much less a universal, requirement for conversion.

version this has become "over six hundred thousand men of military age, while the rest of the multitude, consisting of old men, womenfolk and children, could not easily be counted." Philo serves to indicate the greatness of Moses' leadership by specifying that this multitude consisted of mixed (*μιγάδων*, "mixed pell-mell") people and a crowd of promiscuous people (*συγκλύδων*, "mob," "rabble," "washed together by the waves") and servants (*θεραπείας*, "attendants"), a bastard host (*νόθον*), as it were (*ὡσανεί*), associated with the true-born (*γνησίου*, "legitimate," "lawfully begotten"). He further explains that the latter were the children of Egyptian women by Hebrew fathers into whose families they had been added (*προσνεμηθέντες*), together with those who, significantly, reverencing the divine favor shown to the people, had come over (*ἐπηλύτας*, "incomers," "strangers," "foreigners") to them, and such as were converted (*μετεβάλοντο*, "thrown into a different position," "turned around," "changed sides") and brought into a wiser mind by the magnitude and the number of the successive punishments that had been inflicted on the enemies of the Israelites.

Philo is saying, in effect, that to be the leader of such a motley crew must have been a challenge of immense proportions, and that only a person such as Moses could have met that challenge. Moreover, Philo takes advantage of this opportunity here to stress his point that Judaism welcomes converts, since he uses the same verb, *μεταβάλλω*, to refer to those of the mixed multitude who had genuinely converted to Judaism ("brought to a wiser mind") and to those who, he says (*Mos.* 2.44), come in his own day to the annual festival commemorating the translation of the Pentateuch in to Greek. He expresses his belief that each nation, inspired by the Pentateuch, would renounce (*χαίρειν*) their ancestral customs and turn *μεταβαλεῖν*) to the laws of the Jews alone. Hence, Moses is the leader not only of Jews but also of proselytes, with all the challenge and opportunity that this brought with it.[130] Another reason for conversion that we find explicitly stated is in the Pseudepigraphic *Joseph and Asenath*, dating apparently from the early part of the second century, the main theme of which is that Asenath may not marry the biblical Joseph so long as she is a heathen, whereas she may and does as soon as she gives up her pagan gods. We hear (*A.J.* 19.355) that Antiochus Epiphanes of Commagene was betrothed to Drusilla, the daughter of Agrippa I, but that the marriage never took place because Epiphanes was unwilling to convert to the Jewish religion (*A.J.* 20.139). On the other hand, we hear (*A.J.* 20.145) that Berenice, the sister of Agrippa II, induced Polemo, the king of Cilicia, to be circumcised and to take her in marriage.

We may conjecture that among the reasons for conversion were economic factors (as perhaps may have been signaled by the kind of role played by the Jewish merchant Ananias in Adiabene, *A.J.* 20.34), benefiting both the haves

130 On Philo's favorable attitude toward conversion of non-Jews to Judaism see my *Jew and Gentile in the Ancient World*, 295–96.

and the have-nots. The former were benefited by the contacts that one might expect with Jews, above all in port cities. If, indeed, it was important, as the recent inscriptions from Aphrodisias show,[131] to list the occupations of donors, it may be that a particular synagogue attracted those who had certain occupations, just as we hear that in the great synagogue in Alexandria seating was by trade (*b.Sukkah* 51b). The fact that a Jew might, at least in those areas where rabbinic influence was strong, obtain a loan without interest might in itself have been an attraction, especially in view of the prevailing rate of interest of 24%, though admittedly we do not in extant literature have any references to people being attracted to Judaism for this reason. Indeed, we may note that in Egypt six papyri have been found mentioning loans by Jews to Jews, one of which is at interest although we do not know the rate, and four of which are at the usual rate of interest, 24%, and only one of which is without interest. On the other hand, the rabbis insisted that if a convert was in financial difficulties it was mandated that other Jews should help him, even to the point of anticipating his distress (*Sifra Behar* 1 [ed. Weiss, p. 109b], *Gerim* 3:4). Apparently, this reached the point where some of the sages noted that there are people who convert simply because they wanted to eat better or to be otherwise supported by the Jewish community (*Yalqut Shimoni Emor* 745, *Eleh Devarim Zuta* 1).

Another possible reason for conversion is the outstanding charitable institutions of the Jews. Thus, one of the inscriptions from Aphrodisias,[132] which the editors have dated in the third century, mentions a *patella*, which they interpret to mean a soup kitchen, to which the list of names that follow contributed. Indeed, in an era where there was widespread poverty, unemployment, and starvation, the assurance that no Jew would be allowed to starve must have proven attractive. Moreover, as we have noted, Philo (*Virt.* 104) calls attention to the fact that food, drink, clothing, and all the rights concerning daily life and necessary needs were granted to proselytes on an equal basis with those who were born Jews.

Furthermore, we have noted Josephus' remark (*J.W.* 2.559–61) that on the eve of the war against the Romans the people of Damascus were fired with a determination to kill all the Jews who resided among them and considered that their plan would present no difficulty whatever except for the fear that they had of their own wives, who, except for a few, had all converted to the Jewish religion. Consequenty, the men of Damascus were directed to keeping the secret from their own wives, and finally they succeeded in slaughtering 10,500 Jews. Indeed, John Chrysostom (*Adversus Judaeos* 2.3.860) in the fourth century charges

131 Reynolds and Tannenbaum, *Jews and God-Fearers at Aphrodisias*; see my "Proselytes and 'Sympathizers' in the Light of the New Inscriptions from Aphrodisias," *REJ* 148 (1989) 265–305.

132 See my "Proselytes and 'Sympathizers' in the Light of the New Inscriptions from Aphrodisias," 265–305.

Christian husbands with the responsibility of keeping wives from going to the synagogue. His contemporary Jerome (*On Matthew* 23:15) notes the presence of women in particular among the Judaizers.

As to why women in particular were attracted to becoming Jews, we may surmise that the fact that women did not undergo circumcision, which was a considerable operation for an adult, was apparently a factor.

A particular case in point may be seen in Philo's discussion (*Virt.* 220–25) of the conversion of Tamar. In the Bible (Gen 38:6–30) there is no indication of her ancestry, let alone of her conversion to Judaism. Philo (*Virt.* 221), however, has the extra-biblical addition that she was from Palestinian Syria and that she had been bred in a house and in a city that worshipped a multitude of gods and that was full of images. Philo describes her passing from profound darkness to being the servant of God. He says that she became educated (*παιδευθεῖσαι*) in the monarchical principle by which the world is governed (*Virt.* 220), that is, the belief in one God, and consequently glimpsed a little ray of truth. Such a step was one of daring (*ηὐτομόλησεν*), in which, says Philo, she risked her very life. This must mean nothing less than the experience of conversion. That it is conversion may be seen from the fact that Philo presents her story immediately after his account of the conversion of Abraham (*Virt.* 219–20). The key issue, as Niehoff remarks,[133] is the "unlearning" of her pagan ancestral idolatry. Philo (*Virt.* 223) then explains, presumably as a parallel to the case of Tamar, that there were women born in the extreme parts of Babylonia who were handmaids and who were given as dowry. These women, he says, passed on from mere concubinage to the position of wedded wives and were treated with the same dignity. The fact that Philo spends so much time in telling her story would seem to show his aim of holding her as an example for all non-Jewish women who came into contact with the Jewish religion.

The rabbis (*b. Yebam.* 24b) refused to accept converts who had ulterior motives. But they were realistic enough to understand the complexity of human motives and hence decided, as summarized in the words of the third-century Rav (*b. Yebam.* 24b), that, once admitted, even those who came for ulterior motives were to be accepted as full-fledged proselytes.

Deuteronomy 23:4–9 declares that Ammonites and Moabites will never be allowed to marry Israelites, whereas Edomites and Egyptians are to be excluded for only three generations. Immediately after the deposition of Rabban Gamaliel

133 Maren R. Niehoff, *Philo on Jewish Identity and Culture* (Tübingen: Mohr Siebeck, 2001) 29–31, who cites (30, n. 42), on the parallel between Abraham's and Tamar's conversion in Philo's account, Madeleine Petit, "Exploitations non bibliques des Thèmes de Tamar et de Genèse 38. Philon d'Alexandrie; textes et traditions juives jusq'aux Talmudim," in *ΑΛΕΞΑΝΔΡΙΝΑ (Hellénisme, judaisme et christianisme à Alexandrie) Mélanges offerts à P. Claude Mondésert S.J.* (Paris: Editions du Cerf, 1987) 80.

the Patriarch by the Sanhedrin, there was a public confrontation between Rabban Gamaliel and Rabbi Joshua ben Hananiah about the status of Ammonites and Moabites (*b.Ber.* 28a). A certain Judah, an Ammonite, came before the house of study and asked whether he might be permitted to marry a Jewess. Rabbi Joshua agreed. Rabban Gamaliel refused. Rabbi Joshua argued that Sennacherib, the king of Assyria, had long ago mixed up all the nations and hence that he should be permitted. The rabbis ruled that he should be admitted.

In the case of the conversion of the ruling family of the Adiabenians, they may have sought neutrality between the two great powers of the day, Rome and Parthia, just as the conversion of the Khazars in the eighth century may have been motivated by the desire to remain neutral between Byzantine Christendom and Islam.[134]

Summary

There is reason to believe, though the matter is certainly subject to scrutiny and though it is not possible to arrive at anything like a precise figure, that there was a great increase in the number of Jews between the time of the Babylonian capitivity in 586 B.C.E. and the first century C.E. In estimating populations in the Hellenistic-Roman world, scholars from Beloch and von Harnack to Parkin, Hopkins, Henige, and Scheidel have properly warned us that we cannot believe what ancient authors tell us without considering their source of information and their purpose in giving us the information.

Josephus is a major source for population statistics. Because he is so critical of the inaccuracies of his many rivals he had to be particularly careful in presenting his own data. Moreover, he presented his work to Vespasian, Titus, and Agrippa II, among others, to confirm his accuracy. The fact that he criticizes no fewer than eight Greek historians would lay him open to reduction to absurdity if he himself turned out to be unreliable.

As to the population of Palestine at this time, Josephus states that a crowd of 3,000,000 Jews implored the Roman governor Cestius Gallus, when he visited Jerusalem at Passover in 65, to have compassion upon them in view of the excesses of the procurator Florus. This number may well have been a round figure; moreover, multiples of three are numerous in Josephus. However, in the following year, on the occasion of Passover, according to Josephus, Cestius ordered a count of the Jews to be taken by any means possible by the chief priests and reported to Nero. Since all Jews were required to partake of paschal lambs, the priests counted the number of lambs that were slaughtered, which was 255,600. Inasmuch as no fewer than ten partook of each lamb, they reported a total of 2,700,000 persons.

134 See Baron, *A Social and Religious History of the Jews*, 3:198–200.

In one case we can compare Josephus' numbers with those of Tacitus. Josephus says that the number of those who perished during the siege of Jerusalem was 1,100,000. Tacitus says that the number of those besieged was 600,000, but this may not be the same as those who perished in the siege. Josephus does mention 600,000 as the number of corpses of the lower classes thrown out through the gates of Jerusalem. We should note that Tacitus says *accepimus*, that is, "we have heard," a clear admission that he had not verified the figure. The number 600,000 is a round figure, whereas 1,100,000 is unique in Josephus.

If there was such an increase in the number of Jews, it may be explained most readily only by assuming a large number of converts to Judaism. Considerable doubt surrounds the alleged forced conversion of the Idumaeans at the end of the second century B.C.E. and of the Ituraeans shortly thereafter. The statements of Philo and Josephus indicate that the Jews were well disposed toward attracting converts and that, indeed, they succeeded in doing so. This aim is likewise reflected in statements in the New Testament, in Strabo, Seneca, Juvenal, and Tacitus, as well as in rabbinic literature. This does not mean that Judaism was a missionary religion. It certainly lacked a central administration and a central bureaucracy capable of carrying on such a mission. What it does mean is that there is evidence, direct and indirect, that there were many converts to Judaism. To say that Judaism must have been a missionary religion because Christianity, which is primarily derived from Judaism, is a missionary religion, is an unproven hypothesis. Just as Christianity differed from its mother religion in its abrogation of the Law, so might it have differed from Judaism in its attitude toward missionizing. Indeed, in adopting such an attitude Christianity may have been indebted to the mystery cults such as Isis and Mithras or to the philosophical schools such as Cynicism and Stoicism.[135] The fact that we know of no tracts aimed specifically at attracting non-Jews to Judaism may be explained by the hypothesis that the great majority of people in antiquity were illiterate and that most conversions were apparently obtained through oral persuasion. Moreover, expulsions of the Jews from Rome on at least two occasions because of proselyting activities may indicate that some Jews were, indeed, eager to accept converts. The generally very positive attitude of the rabbis toward proselytes would accord with this view. We may conjecture that people were attracted to Judaism for various reasons, especially economic advantages and the charitable institutions of the Jews. Women, in particular, were attracted.

In sum, there are no statistics as to the actual number of converts to Judaism, nor do we have the memoir of even a single convert, nor do we have any propaganda specifically directed to converts, nor do we know of a single professional missionary. We know the names of very few converts. The evidence is inferential,

135 See Arthur Darby Nock, *Conversion: The Old and the New in Religion from Alexander the Great to Augustine of Hippo* (London: Oxford Univ. Press, 1933) esp. 1–32, 77–137, 164–92.

based on the apparent (with emphasis on the word "apparent," since we are far from having actual numbers) growth in the number of Jews, based on a number of literary statements indicating the welcome that Jews extended to proselytes and the bitter opposition on the part of some Gentiles opposed to the movement. In other words, the evidence, though substantial, is circumstantial.

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Midrash as Mnemonic

A New Approach to Rabbinic Exegesis

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Midrash Aggada has many functions, not all purely exegetical, as when it links the eighteen mentions of the Tetragrammaton in Psalm 29 to the eighteen benedictions of the *Amida*. Starting with this psalm, and moving on to other examples in *Midrash Tehillim* and elsewhere, the mnemonic functions of *midrashim* are found to anticipate or replace other aids to memory not or not readily available to rabbinic exegetes, including concordances, dictionaries, masoretic glosses, and chronological frameworks (not to mention printed or written editions of the text). The role here suggested for *midrash* is thus one of helping to fix the text of scripture in memory. It is not intended to exclude any of the more traditional approaches to *midrash*, briefly reviewed in the introduction, which understand it as serving in one way or another to interpret that text.

Midrash serves multiple functions, and has been subject to multiple interpretations. These have been conveniently passed in review by Daniel Boyarin on his way to proposing his own new theory.[1] Let me recall them briefly here.

We may begin, as Boyarin does, with Maimonides, whose *Guide to the Perplexed* accepts the notion that *midrash* manifestly does not preserve the literal meaning of the text. But that is no warrant to reject it outright. Instead he classifies *midrash* as poetry, i.e., "didactic fiction," "homiletic fiction" or "praiseworthy sophistry" in Boyarin's phrases. A more modern opinion is represented by Joseph Heinemann, who thinks that

> The aggadists do not mean so much to clarify difficult passages in the biblical text as to take a stand on the burning questions of the day, to guide the people and strengthen their faith.[2]

This view of matters is a legacy of the disenchantment with nineteenth century historiography, with the notion that history could be reconstructed and written "as it actually happened" ("wie es eigentlich geschehen ist" in the famous phrase of Leopold von Ranke, 1795–1886). It is eerily anticipatory of the current

1 Daniel Boyarin, *Intertextuality and the Reading of Midrash* (Bloomington, Ind: Indiana Univ. Press, 1990, 1994).

2 Joseph Heinemann, "The Nature of the Aggadah," in Geoffrey H. Hartman and Sanford Budick, eds., *Midrash and Literature* (New Haven: Yale Univ. Press, 1986) 49; cited by Boyarin, *Intertextuality*, 3.

debate on historiography in biblical studies as well as in Assyriology over the admissibility or otherwise of later literary compositions in the reconstruction of history: here the skeptics contend that ancient historiography is not really concerned with prior history but with the issues of its own time.[3] Yet *Midrash Aggadah* has precious little to do with historiography, for even the least positivistic historians "will not countenance the *creation* of facts *ex nihilo* by the historian." Isaak Heinemann's "creative historiography" is at best a sort of "historiosophy," according to Boyarin.[4]

After dismissing Jacob Neusner's critique of intertextuality in the *midrash* as ill-informed,[5] Boyarin proceeds to base his new approach to *midrash* on the intertextuality he finds inherent in all literature, but in particular measure in *midrash*. He sums up his own approach thus:

> . . . midrash is a reading of the Bible. . . . it is a product of the very process by which the Bible was constituted as Scripture. This perspective comprehends how later texts interpret and rewrite the earlier ones to change the meaning of the entire canon, and how recognizing the presence of the earlier texts in the later changes our understanding of these later texts as well.[6]

Elsewhere he says:

> I wish to claim that midrash – the Oral Torah – is a program of preserving the old by making it new. The very surprise of the new meanings that were read in (not into nor quite out of) the Bible by the rabbis was precisely the means by which the Torah was prevented from losing its ability to mold ideology and change behavior.[7]

But Neusner cannot be dismissed so easily. His writings on *midrash* are voluminous.[8] Neusner takes issue with the common notion that *midrash* represents

3 William W. Hallo, "New Directions in Historiography (Mesopotamia and Israel)," in dubsar antamen: *Studien zur Altorientalistik: Festschrift für Willem H. Ph. Römer* (AOAT 253) (Münster, Ugarit-Verlag, 1998) 109–28; *Hallo*, "Polymnia and Clio," in T. Abusch, et al., eds., *Historiography in the Cuneiform World* (Bethesda, Md.: CDL Press, 2001) 195–209.

4 Boyarin, *Intertextuality*, 8, with reference to Isaak Heinemann, *Darkhe ha'aggadah* (3rd. ed.; Jerusalem: Magnes Press, 1974).

5 Boyarin, *Intertextuality*, 13f., with reference to Jacob Neusner, *Wrong Ways and Right Ways in the Study of Formative Judaism* (Atlanta: Scholars Press, 1988) 59–73.

6 Boyarin, *Intertextuality*, 16.

7 Boyarin, *Intertextuality*, 37. This is not so far from my point that *midrash* protects the text; see presently.

8 Neusner has written more than a hundred monographs on *Midrash*; see the bibliography in

exegesis of biblical verses,[9] preferring to regard it as exegesis of whole biblical books – not so much because it implies a unity of rabbinic exegesis, as Boyarin would have it, but because, to Neusner, *midrash* is not, or not primarily, exegesis at all. According to another of his critics, Neusner "denies the exegetical seriousness of the rabbis."[10] In Neusner's own words, the Sages "did not write *about* Scripture, they wrote *with* Scripture."[11] For them, "Scripture formed a dictionary, providing a vast range of permissible usages of intelligible words."[12]

Another recent "field theory" of *midrash* considers it responsible, no less, for "the fragmentation of modern Judaism." However, Jay Harris is not concerned with *Midrash Aggadah* in his analysis but with halakhic *midrash* which rests on what he takes to be the excessive freedom to depart from the plain meaning (*peshat*) of the biblical text and thus weakens the textual authority on which that very law is presumably based.[13]

A less controversial suggestion was offered some time ago by Maurice Samuel. Writing an introduction to *Come Under the Wings*, the lengthy poem by Grace Goldin which she subtitled "A Midrash on Ruth," he said of "the attitude of the Men of the Midrash":

> We are not dealing here with replacement or even restatement, but with rediscovery, the very point of which is that what we have 'rediscovered' seems always to have been there; and the naturalness with which this point is made is the measure of the rediscoverer's skill.[14]

Perhaps the most novel interpretation of *midrash* is that advanced by the theoreticians of literature, according to whom *midrash* is a form of hermeneutics which can apply to any text, not just to the biblical text, and which can be applied by any reader of text, not just by someone committed to rabbinic hermeneutics. This point of view is advanced and defended most clearly in some of

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his *The Midrash: An Introduction* (Northvale, N.J./London: Jason Aronson, Inc., 1990) 221–29 (98 titles) and add, since then, Jacob Neusner, *Scripture and Midrash in Judaism* (Frankfurt/New York: P. Lang, 1994–95); *Judaism Behind the Texts: the Generative Premises of Rabbinic Literature* (5 vols.; Atlanta: Scholars, 1993–94); *Rabbinic Narrative: a Documentary Perspective* (Leiden: Brill, 2003).

9 Taking James Kugel as representative of that point of view; cf. Boyarin, *Intertextuality*, 13.

10 "Jacob Neusner also denies the exegetical seriousness of the rabbis, apparently as part of his apologetic construction of philosophical rabbis." Jay M. Harris, *How Do We Know This? Midrash and the Fragmentation of Modern Judaism* (Albany: SUNY Press, 1995) 336, n. 16.

11 Neusner, *The Midrash: An Introduction* (Northvale, N.J.: Jason Aronson, 1990) x.

12 Neusner, *The Midrash*, xi.

13 Harris, *How Do We Know This?*

14 Maurice Samuel, "On the Goldin 'Midrash Ruth,'" in Grace Goldin, *Come Under the Wings: a Midrash on Ruth* (Philadelphia: Jewish Publication Society of America, 1958) 13–20, esp. p. 14.

the essays edited by Geoffrey Hartmann and Sanford Budick in 1986.[15]

All told, there is thus no lack of theories to explain and describe *midrash*. They are not necessarily mutually exclusive with each other. But they derive from Classical or Christian models, or even Islamic ones, as in the case of the Masoretic activity that will be mentioned below. Alternatively they provide models for general literary criticism, as in the case of intertextuality. There is thus perhaps still room for a new approach to rabbinic exegesis that is inherently contextual, that sees *midrash* as a methodology, neither derived from outside nor easily applicable beyond the boundaries of Judaism. It will here be argued that the mnemonic function of *midrash* is such an approach, suggestive of a methodology inherently original in its Judaic context.

The *Midrash* on Psalm 29

To illustrate my hypothesis of a mnemonic function in *midrash*, I will begin with the *midrash* on Psalm 29 which long ago suggested the hypothesis to me. As I wrote in 1970:

> The fence which Rabbinical tradition built around the law was really a fence around *the words* of the law, around the text. I am not alone in thinking that much of Rabbinic exegesis, halakhic and especially aggadic, was inspired less by the desire to elucidate the text than by the need to fix it – in the mind and in the life of the people. . . .[16] Critics may argue whether the meter of Ps. 29 can best be salvaged by adding or excising a verse, but either course would spoil the point of the Midrash that links its eighteen mentions of the Tetragrammaton with the eighteen benedictions of the Amidah.[17]

Whatever its merit, this suggestion has remained buried in the obscure publication of a 1969 colloquium and has not been taken up, so far as I know, by anyone else. And since my prooftext was based on a Psalm passage, I have chosen to look for more prooftexts in the same biblical source. The task is ren-

15 Hartman and Budick, *Midrash and Literature*.

16 This was to some extent a restatement of Judah Goldin's position in "The Third Chapter of ʾAbot de-Rabbi Natan," HTR 58 (1965) 365–86, esp. 366–68; cf. Goldin, "The End of Ecclesiastes: Literal Exegesis and its Transformation," in Alexander Altman, ed., *Biblical Motifs: Origins and Transformations*, Studies and Texts 3 (Cambridge, Mass.: Harvard Univ. Press, 1966) 135–58, esp. 138–42;. repr. in Goldin, *Studies in Midrash and Related Literature*, eds., Barry L. Eichler and Jeffrey H. Tigay (Philadelphia: Jewish Publication Society, 1988) 3–25, esp. 6–10.

17 Hallo, "Biblical Studies in Jewish Perspective," in Leon A. Jick, ed., *The Teaching of Judaica in American Universities: the Proceedings of a Colloquium* (Cambridge, Mass.: Association for Jewish Studies, 1970) 43–46, esp. 44f.

dered vastly easier by the compilation known as *Midrash Tehillim*.[18] Admittedly this compilation is late, perhaps no earlier than the tenth century, but its sources go back to the beginnings of aggadic *midrash*. It assembles a vast treasure of rabbinic comments and homilies which have a Psalm verse as their starting point – and which illuminate every other book of the Bible as well.

Psalm 29 figures prominently in the Sabbath morning liturgy, where it is recited when the Scroll of the Law is returned to the Ark. It begins *havu ladonai benei eilim, havu ladonai kavod waʿoz*,"Ascribe to the Lord, O divine beings, ascribe to the Lord glory and strength"(NJV). Already another (?) psalmist had struggled to get rid of the *benei eilim*, whether divine beings or, literally, the sons of god(s),[19] by changing the colon to read *havu ladonai mishpechot ʿamim*, "Ascribe to the Lord, O families of the peoples"(Ps 96:7; cf. 1 Chronicles 16:28a). And the *midrash* struggled too; it asked: "What are *benei eilim*?"and answered: "The dumb (*benei illem*) and the deaf who have the power (Braude: the right) to talk back and do not talk back." And it buttressed this notion of "talking back" to the Lord by appeal to the story of Abraham, who "talked back" to the Lord when called upon to sacrifice Isaac. As the *midrash* puts it:

> For what can Abraham have meant by *Adonai-yirʾeh* (Gen 22:14), except "O Lord (*Adonai*), note (*reʾeh*) that I have the right to talk back to thee. In days gone by Thou didst say to me "it is through Isaac that offspring shall be continued (lit. called) for you" (Gen 21:12). Yet now thou sayest unto me: "Take your son, your favored one, whom you love" (Gen 22:2). (Abraham had asked God: Which of my sons?" And God had answered: "your favored one [lit.: your only one]!" Abraham had said to God: "This one is an only son to his mother, and that one is an only son to his mother." And God had answered "your son . . . whom you love." Then Abraham had said "I love both of them.")

Only when God followed with an explicit "Isaac!" did Abraham accede. This familiar *midrash* invites imitation; the Quran substitutes Ishmael for Isaac.[20]

The next verse (Ps 29:2; cf. Ps 96:8; 1 Chr 16:29) begins: *havu ladonai kevod shemo*, "Ascribe to the Lord the glory of His name." The Midrash comments;

18 Salomon Buber, *Midrasch Tehillim (Schocher Tob): Sammlung agadischer Abhandlungen über die 150 Psalmen* (Vilna: Romm, 1891) (Heb.). Cf. also J. A. Cohen, *Otsar Hattehilim: halakha weʾaggada* (3 vols., New York, Twersky Brothers Printers, 1947) (Heb.). While I have generally followed the magesterial, if sometimes interpretive, English translation of William G. Braude, *The Midrash on Psalms*, Yale Judaica Series 13 (2 vols.; New Haven: Yale Univ. Press, 1959), I have not hesitated on occasion to subsitute my own, more literal, translation.

19 Cf. the translation which Martin Buber completed after the death of Franz Rosenzweig, where this becomes: "Zollt IHM, Gottessöhne, zollt IHM Ehre und Macht!"

20 Sura 37:99–110. I have used this *midrash* myself on another occasion; see my obituary for Jacob J. Finkelstein, *Assur* 1/4 (1975) 1f.

> Whenever I recall His (Ineffable) Name (*YHWH*), you are to "ascribe to the Lord the glory of His name." As Moses said (in his song *Haʾazinu*): *ki shem adonai eqra, havu godel leloheinu*, "For the name of the Lord I proclaim; give glory to our God!" (Deut 32:3) – (that is), pray before Him, speak to Him. (Moses upon being asked,) "Whence do we know how many (prayers we are to offer?") answered them: "Therefore you must offer Eighteen Benedictions" (the *shemone ʿesre*).

The *midrash* then continues with a verse-by-verse analysis of Psalm 29, matching each of its mentions of the divine name (*ʾazkarot*) with one of the Eighteen Benedictions.[21] Sometimes the match makes quite good sense, as when the last half verse of the Psalm – "the Lord will bless His people with peace" – calls for the Eighteenth Benediction *ʿoseh hashalom*, "who makest peace." Much more often the match is forced and the linkage is tortuous, as in the 15th *azkara*: "the Lord sat enthroned at the Flood," which the Midrash can only link with the benediction *shomeʿa tefilah*, "who hearest prayer," by arguing that

> when He sat down (during the Flood) in judgement with the wicked, He hearkened to the prayers of those who came into the ark, as it is said "God remembered Noah and all the beasts and all the cattle . . . and the waters subsided" (Gen 8:1).

The real point of the psalm verse is, however, not grasped in this misreading of its first half.[22] Read in its entirety, it is meant to suggest not divine graciousness but divine sovereignty. It should be understood to mean: "The Lord sat enthroned (already) *before* the flood, and the Lord will sit enthroned as king forever." This sense has clear analogies in the Akkadian concept of "before the flood," *lam abubi*, of which Hebrew *lammabbul* is either a cognate or a calque.[23]

The *midrash* on Psalm 29 follows this up with an alternative *midrash* for the Eighteen Benedictions, based on its reading of the account of the building of the Tabernacle in the wilderness. This is explained more fully in *Leviticus Rabbah* (1:8) as corresponding to the eighteen times that the account (in Exodus 38:23–40:38) says "as the Lord had commanded Moses" or the like.[24] For good

21 Cf. similarly *b.Meg.* 17b; Cohen, *Otsar Hattehillim* 1:371f.

22 For the literary concept of (intentional) misreading, see Harold Bloom, *Map of Misreading* (New York: Oxford Univ. Press, 1975, 1980, 2003).

23 Hallo, *The Book of the People* (Atlanta: Scholars Press, 1991), 37 and n. 6; Hallo, "Information from before the Flood: Antediluvian Notes from Babylonia and Israel," *Maarav* 7 (Studies . . . Gevirtz, 1991) 173–81; Chaim Cohen, "The Lord Sat Enthroned Before the Flood (Ps 29:10): A New Interpretation," *Leshonenu* 53 (1990) 193–201 (Heb.).

24 Mordecai Margulies, ed., *Leviticus Rabbah* 1:8 (5 vols.; Jerusalem: Minisry of Education and Cul-

measure this *midrash* on Leviticus adds still more *midrashim* for the Eighteen Benedictions: they correspond to the 18 mentions of the divine name in the Shema, or to the 18 times that the patriarchs are mentioned together in the Bible, or even to the 18 vertebrae of the spinal column.[25]

In *Midrash Tehillim*, there then follows a midrashic explanation for the fact that the Eighteen Benedictions are said only on weekdays, while on Shabbat, only the first three and the last three – all in praise of God – are recited, plus a special benediction for the Sabbath, making seven in all, and corresponding to the seven occurrences of the divine name in Psalm 92, "A psalm. A song for the Sabbath day"; for good measure, the psalm verse (119:164) "I praise You seven times each day" is also invoked. (The middle twelve benedictions on weekdays deal with the needs of man).

The initial rabbinic association is also preserved in the Tosefta (*Berakhot* 3:25) which states that "the Eighteen Benedictions referred to by the Sages correspond to the eighteen mentions of the divine name in the psalm that begins *havu ladonai benei eilim*" (that is Psalm 29).

For all this apparent unanimity of rabbinic exegesis, the matter is not quite that simple. In the first place, Psalm 29 invokes the deity 19 times in all, 18 times by the Tetragrammaton and once by the generic name "God" (*el*) (v. 3). In the second place, the original number of 18 benedictions was later augmented by one, for the restoration of the Davidic house.[26] These two facts were reconciled, after a fashion. Much the same solution is arrived at in the *midrash* to Psalm 20. This is recited after the *shemone ʿesre* in some liturgical traditions[27] and one Rabbi is quoted as holding that in the Psalter it is preceded by 18 psalms if Psalms 1 and 2 are counted as one. But even if they are not, then the 19 psalms that precede Psalm 20 correspond to the nineteen benedictions arrived at when including the prayer for the Davidic restoration.

Presumably the *midrash* was neither trying to legislate the number of blessings nor to explain the Psalm. What does emerge as a reasonable conclusion is

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ture, 1953–60) 1:20–21, and see Margulies' notes there. The relevent biblical passages are: Exod 39:1, 5, 7, 21, 26, 29, 31; 40:19, 21, 23, 25, 27, 29, 32: *kaʾasher tsiwwa adonai et moshe* (14 times); *kekhol ʾasher* etc.: 39:32, 42 (2 times); *kaʾasher tsiwwa adonai ken ʿasu*: 39:43; *kekhol ʾasher tsiwwa oto*: 40:16. Total: 18 times. For the significance of this formula (in Deuteronomy) see Hallo, *Book of the People*, 94 and n. 30; Hallo, *Origins* (Leiden: Brill, 1996) 215.

25 Cohen, *Otsar Hattehillim*, 1:369f. Cf. Gary G. Porton, *Understanding Rabbinic Midrash: Texts and Commentary* (Hoboken: Ktav, 1985) 198f.

26 *B.Ber.* 28b identifies the prayer against heretics as the nineteenth benediction, but comparison of early liturgical texts from the Cairo Genizah of both Palestinian and Babylonian provenance indicates that the nineteenth benediction resulted from the splitting in two in Babylonia of a single Palestinian prayer for the rebuilding of Jerusalem and the restoration of the Davidic monarchy. See Ismar Elbogen, *Jewish Liturgy: A Comprehensive History*, trans. Raymond P. Scheindlin (Philadelphia: Jewish Publication Society, 1993) 35–36.

27 Braude, *The Midrash on Psalms*, 2:453, n. 3.

that it used the familiar concept of the *shmone ʿesre* (whether rightly so named or not) as a mnemonic device for the correct memorization of the Psalm.

The need for mnemonics of one sort or another is patent in a culture where the text was more often transmitted orally than in writing, and where there were no written aids to memory such as we rely on today. There were no dictionaries, no concordances, and before the seventh century C.E. no Massoretic glosses. The prodigious feats of memorization that we attribute to the Rabbis encompassed not only the Tanakh but also the entire Mishnah[28] and much of the Talmud[29] before the scruples against writing them down were overcome.[30] So it should come as no surprise if these feats were sometimes aided and abetted by mnemonic devices – or that *midrash* could function as one of them.

The co-existence of "orality" and literacy are well attested in post-biblical Judaism, as shown by Martin S. Jaffee[31] and Yaakov Elman,[32] among others, while Mary Carruthers has demostrated it for the later Christian world.[33] Let us then turn to some other Midrashic examples of potential mnemonic

28 See Jacob Neusner, *The Redaction and Formulation of the Order of Purities in Mishnah and Tosefta,* A History of the Mishnaic Law of Purities 21 (Leiden: Brill, 1977); Neusner, *The Memorized Torah: the Mnemonic System of the Mishnah,* Brown Judaic Studies 96 (Chico, Calif: Scholars Press, 1985); Neusner, *Oral Tradition in Judaism: the Case of the Mishnah* (New York: Garland, 1987).

29 Birger Gerhardsson, *Memory and Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity* (2 vols.; Lund: Gleerup, 1961); (2nd ed., with a foreword by Jacob Neusner; Grand Rapids, Mich.: Eerdmans, 1998) esp. 148–56: "Mnemonic Techniques."

30 Similar scruples are thought to have, at first, inhibited the use of cuneiform writing for religious texts; more than half of the earliest of these (ED I and II) are written in the so-called UD.GAL.NUN system, a kind of cryptography. See Joachim Krecher, "UD.GAL.NUN *versus 'Normal' Sumerian: Two Literatures or One?"* in Pelio Fronzaroli, ed., *Literary Language and Literature at Ebla*, Quaderni di Semitistica 18 (Florence: Univ. of Florence Department of Linguistics, 1992) 285–303.

31 Martin S. Jaffee, "Writing and Rabbinic Oral Tradition: on Mishnaic Narrative, Lists and Mnemonics," *Journal of Jewish Thought and Philosophy* 4 (1994) 123–46; Jaffee, "A Rabbinic Ontology of the Written and Spoken Word: on Discipleship, Transformative Knowledge, and the Living Text of Oral Torah," *JAAR* 65/3 (1997) 525–49; Jaffee, "The Oral-Cultural Context of the Talmud Yerushalmi: Greco-Roman Rhetorical Paideia, Discipleship, and the Concept of Oral Torah," in Peter Schafer, ed., *The Talmud Yerushalmi and Greco-Roman Culture* (3 vols., Tübingen: Mohr Siebeck, 1998–2000) 1:27–61; Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 B.C.E.–400 C.E.* (New York: Oxford Univ. Press, 2001); (references courtesy S. Fraade).

32 Yaakov Elman, "Orality and the Redaction of the Babylonian Talmud," *Oral Tradition* 14/1 (1999) 52–99; Elman, "Orality and the Transmission of Tosefta Pischa in Talmudic Literature," in H. Fox and T. Meacham, eds., *Introducing Tosefta: Textual, Intratextual and Intertextual Studies* (Hoboken, N.J.: Ktav, 1999) 123–180; I. Gershoni and Y. Elman, eds., *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion* (New Haven: Yale Univ. Press, 2000).

33 Cf. Mary J. Carruthers, *The Book of Memory: a Study of Memory in Medieval Culture* (Cambridge: Cambridge Univ. Press, 1990).

devices[34] and see just how they may be said to take the place of concordances, dictionaries, Massoretic glosses and other scholia.

Midrash as Concordance

I will begin by returning to the Song of Moses, *Ha'azinu*, that was quoted by the *midrash* on Ps 29:2 above. This song is introduced by the verse: "Then Moses recited the words of this poem <song> to the very end, in the hearing of the whole congregation of Israel" (Deuteronomy 31:30). This poem, better: "this song," seems to be an innocent enough expression, but it is loaded with meaning for it occurs no less than six times in this context! First God commands Moses to write it down for all posterity (Deut 31:19a), then He warns twice that it will serve as a witness against the Israelites if they sin in the future (31:19b, 21), then Moses writes it down as commanded and teaches it to the Israelites (31:22), then he recites it (31:30), and finally, having recited the poem, we are told again that he recited it, this time with the help of Hoshea, that is Joshua (32:44).

The *midrash*, which usually needs to explain even a single repetition on the principle that there are no redundancies in the sacred text, did not take much notice of this six-fold repetition of the two words *hashirah hazot*. Instead we have to look at the *midrash* on Exod 15:1 for an explanation. There, in the introduction to Moses' Song at the Sea, the two words occur together for the first time in the Bible. As Judah Goldin has shown,[35] the various midrashic sources have confused the issue, but they can be boiled down to this: there are altogether ten places in the Bible where the words "this song" *hashirah hazot* (feminine) occur. In addition to the Song of the Sea and the six references to the Song of Moses already noted, they are the "Song of the Well" in Numbers 21:17, and the Song of David in 2 Samuel 22 and its virtual duplicate, Psalm 18. All of them refer to triumphs, but according to the *midrash* all of them begat subjugations, much as a woman in labor begets a child. Only in the final song of triumph, ushering in the Messianic age, is the more common masculine form *shir* used, namely in Isaiah 42:10 and Ps 149:1 (cf. Ps 33:3, 40:4, 96:1, 98:1, 144:9) and then together with the adjective "new." The new song celebrating the future salvation is in the maculine form and it will not beget subjugation, for just as no male can give birth or, in the words of Jeremiah (30:6): "Ask and

34 Collectively referred to as *zekher* or *siman* in rabbinic terminology; cf. Gerhardsson, *Memory and Manuscript*, 152–54.

35 Judah Goldin, "'This Song,'" in Saul Lieberman and Arthur Hyman, ed., *Salo Wittmayer Baron Jubilee Volume* (Jerusalem/New York: American Academy for Jewish Research, 1975) 539–54; repr. in Goldin, *Studies in Midrash*, 151–61. Cf. Goldin, *The Song at the Sea* (New Haven/London: Yale Univ. Press, 1971) 68–76.

see: surely males do not bear young!" so the triumph which is yet to come will not be succeeded by subjugation, as it is said (Is 45:17): "But Israel has won through the Lord triumph everlasting. You shall not be shamed or disgraced in all ages to come!"[36]

Goldin concluded his study with a postscript referring us once more to the liturgy: what are we to make of what might be called the "mixed metaphor" involved in the prayer *shirah ḥadashah shibbeḥu geʾulim*? Surely *not* that those just redeemed from Egypt sang a new triumphal song only destined to foreshadow a new subjugation, but rather that they "'sang a Song of the New Age,' to wit *adonai yimlokh leʿolam waʾed*, ['the Lord will reign for ever and ever' (Exod 15:18)]."[37]

As reconstructed by Goldin, and by James Kugel in a more recent study,[38] this *midrash* presents us, it seems to me, with a perfect illustration of a mnemonic substitute for the concordance. It tells us that the expression "this song" occurs ten times in the biblical text, no more no less; whether the context is always one of triumph, as modern critical research also tends to think, and whether it is always followed by subjugation are secondary considerations.

For good measure we may note a comparable list of ten places in the Bible where a song is referred to. According to the introduction to the Targum of the Song of Songs, they are, in order: 1. Ps 92:1 (Adam); 2. Exod 15:1 (Moses); 3. Num 21:7 (Israelites); 4. Deut 32:9 (Moses); 5. Joshua 10:12 (Joshua); 6. Judges 5:1 (Barak and Deborah); 7. 1 Sam 2:1 (Hannah); 8. 2 Sam 22:1 (David); 9. Song of Songs 1:1 (Solomon); and 10. Is 30:29 (returning exiles).[39] Note, however, that the references are to a mix of the masculine noun (nos. 1, 9, 10), the feminine noun (nos. 2, 3, 4, 8), and the verb (nos. 5, 6), all derived from the root for "song, sing," and once a verbal form of "to pray" (no. 7).[40]

Midrash as Dictionary

Before we leave the subject of triumphal songs, let us take a look at the *midrash* on Psalm 1:4 (Buber 10a; Braude 1: 27): "Not so the wicked; rather, they are like chaff that the wind blows away." These words, we are told, are to be considered in the light of the verse "I am a rose of Sharon (*sharon*), / A lily of the valleys" (Song 2:1). This verse, in turn, is to be understood as: "I (am the people

36 Cf. Goldin, *The Song at the Sea*, 75f.; A. A. Halevi, *Shemot Rabbah* (Tel Aviv: *Machberot Lesifrut*, 1959) 309, citing Mordecai Margulies, *Midrash Haggadol: Sefer Shemot* (Jerusalem: Mosad Harav Cook, 1965) 286.

37 Goldin, "'This Song,'" in *Baron Jubilee Volume*, 554, n. 56 (Goldin, *Studies in Midrash*, 161).

38 James Kugel, "Is There But One Song?" *Biblica* 63 (1982) 329–350. (Reference courtesy S. Fraade.)

39 A. J. Rosenberg, *The Five Megilloth*, vol. 1: *Esther, Song of Songs, Ruth* (New York: Judaica Press, 1992), (Part 2:) Song of Songs 2f. Cf. Marvin Pope, *Song of Songs*, AB 7C (Garden City, N.Y.: Doubleday, 1977) 296.

40 For no. 10 see below, at nn. 42f.

which) sang a song of triumph (*shir waron*) before Him," for it is written: "For you, there shall be singing (*hashir*) / As on a night when a festival is hallowed" (Is 30:29a) – and this verse in *its* turn is intended to teach that a song was sung on the night of Sennacherib's discomfiture because, two verses later, we read (Is 30:31a): "Truly, Assyria . . . / Shall be cowed by the voice of the Lord," (although admittedly the prose narrative of Sennacherib's discomfiture does not begin until chap. 36!)[41]

Just so, the *midrash* continues, a song is to be sung on the night of the feast celebrating Pharaoh's discomfiture. The reference, as Braude notes,[42] is to the Hallel recited at the Passover Seder. And he refers to the *midrash* to Ps 113:1, which uses the term "(my) melody" (*neginati*; NJV: "their jibes at me") from Ps 77:7 to link Is 30:29 explicitly to the slaying of the firstborn and the Exodus from Egypt, that is the original Passover.[43]

What all this shows is that the *midrash* is rather blithely indifferent to the exact word for song employed in the context of a triumph. The feminine form predominates, but the masculine will also do, as will, for purposes of homiletics, a synonym like *neginah*, "melody." That makes the mnemonic purpose all the more likely.

Let us take another look at the rose of Sharon. It was apparently cited in connection with the triumphal song for no better reason than a very approximate homophony between the toponym *sharon* and the words for song of triumph, *shir waron*. But the interconnections are taken further by the Midrash. The rose (*ḥavaṣelet*) is "analyzed" or deconstructed into its alleged constituent parts as *ḥabah* and *ṣel*, the first element interpreted variously as "covered" (*ḥabuyah*) or "beloved" (*ḥaviv*) or "tabernacle" (*ḥevyon*), the second as "shadow" as in the name of Bezalel, the builder of the tabernacle in the wilderness, whose name means "In the shadow / protection of God."

And the lily of the valleys (*shoshanat haʿamaqim*) with which it is paired in Song 2:1 reappears as a genre of songs in the Psalter. Three psalms carry the superscript: "For the leader. On *shoshanim*" (*lamenaṣeaḥ ʿal / ʾel shoshanim*): Ps 69, attributed to David, Ps 80, attributed to Asaph, and Ps 45, attributed to the sons of Korach. Ps 45 is a favorite of modern criticism, and is thought to represent an epithalamion, or wedding song, sung outside the wedding chamber to encourage the newlyweds to consummate their marriage. Because

41 On this see most recently Hallo, "Jerusalem under Hezekiah: an Assyriological Perspective," in Lee I. Levine, ed., *Jerusalem: its Sanctity and Centrality to Judaism, Christianity, and Islam* (New York: Continuum, 1999) 36–50; William R. Gallagher, *Sennacherib's Campaign to Judah: New Studies*, SHCANE 18 (Leiden: Brill, 1999) and the review by K. Lawson Younger, Jr., *JAOS* 122 (2002) 600–603.

42 Braude, *The Midrash on Psalms*, 2:403, n. 88.

43 Elsewhere this verse is cited as the climax of the ten songs uttered in this world, this one at the end of the exile; see above, at nn. 39f.

of its allusions to the king and to the daughter of Tyre, it has often been associated with one of the kings of Northern Israel, perhaps even Ahab and Jezebel. But the *midrash* is not interested in these aspects. Rather it emphasizes the one-time association of the lilies with the sons of Korach. After a circuitous argumentation, it concludes that *lamenaṣeaḥ* is for once not to be translated "to the leader" but as "For Him Who gives victory" (*niṣaḥon*). So here the mnemonic intent may be to remind the student of the peculiar combination of elements in the first half of this particular psalm title or superscript.

A similar concern may "explain" the *midrash* on the second half of the superscript: "A *maskil*. A love song" (*maskil shir yedidot*). The psalm is introduced by three words, we are told, "to stand for the three sons of Korach, and because they were three, they recited three (songs)." Although this requires *lamenaṣeaḥ*, as the first word, to be given its usual meaning, the *midrash* is not concerned with the possible inconsistency with the previous interpretation. It is, rather, interested in using the common knowledge that there were three sons of Korach to impress on the memory that there were three words used here – exceptionally – to introduce a psalm. Or perhaps it was the other way round, and the three words of Ps 45:1 were used to validate the Kohathite genealogy of Exod 6:18–25 with its three sons of Korach (Assir, Elkana, Abiassaf) against the Kohathite genealogies of 1 Chr 6:7–9 and 18–22 with only one son each (Amminadab or Ebiassaf).[44]

As these examples demonstrate, *midrash* can fulfill some of the standard functions of dictionaries, however imperfectly and unscientifically. These include: varieties of meanings and semantic expansions; etymologies; homophones; synonyms and antonyms; and dissenting opinions about any of these matters. Varieties of meaning are illustrated by the suggested differences between *shir* as a song and *shirah* as a song of triumph, with *neginah* as a synonym of the latter. Real etymologies are illustrated by the derivation of *lamenaṣeaḥ* from the root *nṣḥ*, false or "popular" etymologies by the deconstruction of *ḥavaṣelet*, or by the attempt to link *sharon* and *shir waron*. The interpretation of Ps 45 illustrates an attempt at claiming *lamenaṣeaḥ* as a synonym of sorts for *maskil* and *shir*.[45]

Midrash as *Masora*

The learned notations to the letters of Scripture known as Tradition (*masora*) were not committed to writing until the sixth or seventh century C.E., probably under the stimulus of comparable activities used to fix the text of the Quran under the auspices of the "Good Caliphs."[46] These notations could take

44 Cf. Rodney R. Hutton, "Korach" in *ABD*, 4:100f.

45 As Prof. Fraade explained to me, the expression *eyn X ela Y* (*bekhol maqom*) in the *midrash* is to be understood as a lexicographical notation.

46 See generally Robert H. Pfeiffer, *Introduction to the Old Testament* (New York: Harper, 1941)

the form of an *apparatus criticus* or footnotes (*masora magna*), or the form of marginal notations (*masora parva*). But even after they were committed to writing, it is highly improbable that any great numbers of learned Rabbis had access to the manuscripts that included them. That left a void which in large part was filled by a variety of mnemonic techniques. Among these were: acronyms, or more complicated abbreviations drawn from words in the relevant passages, or a sentence in Aramaic translating a given word from each of the relevant passages.[47] Another could well have been Midrash. Let us cite a few examples.

Ten words in the Pentateuch and five elsewhere in the Bible have dots over them – and sometimes also under them. They are an ancient tradition, going back at least to the second century C.E., but their origin and meaning are in dispute. To take the only case in the Psalter (indeed in the entire Hagiographa), Ps 27:13 reads: "Had I not the assurance / that I would enjoy the goodness of the Lord / in the land of the living . . . [sic!]." The first word, translated by means of the subjunctive, is *lule*; it has dots over and under the first, second, and third letters of *lwl*[ɔ]. The *midrash* asks: "Why (the diacritical) dot(s) over (and under) *lule*?" and answers: "(Because) David (the Psalm is ascribed to him) said before the Holy One, blessed be He: 'Master of the universe, I know that in the world-to-come Thou wilt give good reward to the righteous, but I do not know whether I am or am not among them.'" Braude adds: "Rashi explains that the diacritical dots which mark the word emphasize the uncertainty in David's mind" and refers to *b.Ber.* 4a.[48]

But it is perfectly obvious that there are innumerable other passages in the Bible where uncertainty is expressed by a speaker, and yet unmarked by diacritics. More convincing is the explanation attributed to Ezra the Scribe in *ʾAbot deRabbi Nathan*, (recension A, chap. 34; recension B, chap. 37):

> There are ten dotted places in the Torah . . . For Ezra thought, "If Elijah should come and ask, 'Why did you write these [i.e., the words so dotted]?' I can answer, 'I have already marked them with dots'; and if he should say, 'You did well in so writing' I shall remove the dots."

In other words, the notation signals the uncertainty, not of David, but of the text! Moshe Greenberg's comment is even more persuasive:

> This is a picturesque way of saying that the text in ten places was suspect, and, following a practice which was common to the Alexandrian Greek

82f.; Aron Dotan, "Masorah," *EncJud* 16 (1972) 1401–82.

47 *EncJud* 16:1424f. For other mnemonics in rabbinic literature, see *EncJud* Index s.v. "Mnemonics," and above, nn. 28f.

48 Braude, *The Midrash on Psalms*, 2:465, n. 18.

> grammarians, these doubtful passages were marked with dots. It was doubtless on the evidence of other manuscripts that they were so marked. . . .[49]

In short, the *midrash* may here be seen as an attempt to anticipate or replace the written Masora.

Psalm 107 is familiar as a compendium of appeals to God by those at risk or in distress in various settings. But the "isolated letters" (*otiyot menuzzarot* or *simaniyyot*) which occur at the beginning of seven of its verses (21–26 and 40) are not easily explained. They have been compared to the letter *nun* upside down which occurs before and after the verses in Num 10:35f.[50] There the *nuns* have been interpreted as signaling a transposition of verses,[51] and the recurrence or paraphrase of the first of these two verses (Num 10:35) at the beginning of Psalm 68 helped lead W. F. Albright to interpret this "most difficult of all the Psalms" as "a catalogue of early Hebrew lyric poems" cited by their opening line or incipit.[52] These "inverted *nuns*" have occasioned much debate in scholarly circles.[53] Whether the two verses in Numbers constituted a book unto themselves, as implied in *ʾAbot R. Nat.* 34,[54] and whether that was the "Book of Eldad and Medad" is not the issue here.[55] Suffice it to say that the mere assertion of the existence of such a book in the midrashic literature serves to highlight the special character of the two verses in Numbers and of the enigmatic masoretic signs surrounding them. Similarly enigmatic are the signs in Psalm 107.

Another orthographic feature is constituted by the occasional letters written larger or smaller than usual, the so-called majuscules and minuscules. There are no examples in the Psalter. The most familiar example may be Deut 6:4, the beginning of the Shema, a verse which has no less than two of the four

49 See Moshe Greenberg, "The Stabilization of the Text of the Hebrew Bible, Reviewed in the Light of the Biblical Materials from the Judean desert," *JAOS* 76 (1956) 157–67, esp. 158f.

50 More likely they resemble (and imitate) an *antisigma*, that is, a reversed Greek sigma, used to mark a transposition; Greenberg, "Stabilization," 159.

51 Greenberg, "The Stabilization," 159.

52 William F. Albright, "A Catalogue of Early Hebrew Lyric Poems (Psalm LXVIII)," HUCA 23/1 (1950–51) 1–39, esp. 7. (Cf. also Ps 132:8.)

53 Saul Lieberman, *Hellenism in Jewish Palestine* (2nd ed.; New York: JTSA, 1962) 38 and nn. 1–5; Sid Z. Leiman, "The Inverted *nuns* at Numbers 10:35–36 and the Book of Eldad and Medad," *JBL* 93 (1974) 348–55; Baruch A. Levine, "More on the Inverted *nuns* of Num 10:35–36," *JBL* 95 (1976) 122–24.

54 "Two signs are said in the Torah (to be) in the 'small section' (*parashah*). And what is the small section? 'When the Ark was to set out . . .' (that is, Num 10:35f.). Cf. Goldin, *The Fathers According to Rabbi Nathan*, Yale Judaica Series 10 (New Haven: Yale Univ. Press, 1955) 137.

55 It is not listed among the 24 "uncanonical books or documents mentioned in the Bible" according to Leiman, *The Canonization of Hebrew Scripture*, Transactions of the Connecticut Academy of Arts and Sciences 47/1 (Hamden, Conn.: Arcon Books, 1976) 17f.

majuscules listed in one compilation.[56] The majuscule *ʿayin* at the end of *shemaʿ* is usually explained as a warning against reading the word with a more or less homophonous *ʾaleph*, which would mean in effect "What – are you saying that. . . ." As for the majuscule *dalet* at the end of *ʾechad*, "one," it is usually explained as a warning against writing the word with a more or less similarly shaped *reish*, which would result in the meaning "the Lord is *another/strange*." (I personally prefer a *midrash* of my own making here: the majuscule *dalet* is to guard against reading the word with *taw*, which would result in the meaning "the Lord is one (*feminine*!)."[57]

As an example of a minuscule letter, one might cite the *incipit* (opening word) of Leviticus, *wayyiqraʾ*, "(The Lord) called" (1:1), ending in *ʾaleph zeʿeira*, "a small aleph," according to the Masoretic note. The *midrash*, according to Rashi, connects this with the notion that any communication was preceded by a summons (*qeriʾah*), but when a heathen prophet like Balaam was summoned, it was with the verb *qrh*, "to chance upon" (Num 23:4).[58] The *midrash* to Ps 103:20, however, understands the *incipit* as meaning "The (Divine Word) called."

Another telling use of *midrash* to anticipate Masora is in the matter of plene versus defective spelling (*male* and *ḥaser* in the Masoretic terminology). The Masora counts the number of times each occurs with given words but the *midrash* occasionally depends on the difference. An example is provided by the *midrash* to Ps 104:19, this time cited not from *Midrash Tehillim* but from *Pesiqta Rabbati*, *Piska* 15. The Psalm verse reads: "He made Moon for seasons, Sun knew its sunset." Apart from other explanations of this verse, it is said in the name of R. Yoḥanan:

> (When the world was created,) only the orb of the sun was (intended) to give light, since *yehi meʾorot* (Gen 1:14) is written (with the defective spelling of the word lights) *mʾrt*. If so, why was the moon created? To sanctify (thereby) New Moons and New Year's Days.[59]

Two observations are in order here. First, this argument from orthography is patently weak. Second, there is a much more obvious argument from morphology for treating *meʾorot* (*mʾrt*) in this verse as singular and *limʾorot* in the next

56 *Soferim* 9:1–7 according to *EncJud* vol. 16 s.v. "Masorah" 1408 end. One such majuscule is the *waw* in *gaḥon* in Lev 11:42, marking the middle letter of the Torah; cf. Inken Rühle, *Gott spricht die Sprache der Menschen* (Tübingen: Bilam Verlag, 2004) 84.

57 Note also the Qere/Ketib of Isa 66:17.

58 Reference courtesy Dr. Jay Sokolow.

59 Meir Friedmann, ed., *Pesikta Rabbati* (Vienna: self published, 1880) 66a and William G. Braude, *Pesikta Rabbati*, Yale Judaica Series 18/1 (New Haven/London, Yale Univ.Press, 1968) 303; cf. 66b (Braude, 304) where R. Zeira teaches in the name of R. Ḥananiah that formerly only one *meʾor* (sun) was intended to shine but lest that be worshipped another was added (moon) but written defectively. (Similarly *Pesiqta de Rab Kahana*; reference courtesy S. Fraade.)

verse as plural, since the former is governed by the singular verb *yehi* and the latter by the plural verb *wehayu*. The likeliest intent of the *midrash* is, then, to impress the different orthographies of *me'orot* in vv. 14 and 15 on the memory – the more so as v. 16 reverts to the defective orthography in what is indubitably a plural context, as duly noted at the end of *Piska* 15:1.

Finally, the *midrash* can call attention to variants between duplicate versions of otherwise identical texts. Ps 18, for example, is a virtual duplicate of 2 Samuel 22, as already noted. But its concluding verse has a significant variant: *mgdyl* in 2 Sam 22:51, with a Masoretic note to the effect that it is to be read as if written *mgdwl*, that is "tower" (*migdol*), and *magdl* in Ps 18:51, with a Masoretic note to the effect that it is to be read as if written *mgdyl*, i.e. "the one who enlarges" (*magdil*). The *midrash* includes the following comment:

> One text says "(God is) the tower (of victory to His king)" (2 Sam 22:51), and one text says "He accords large (victories to His king)" (Ps 18:51).

It then proceeds to explain both versions – the Messiah will become as a tower to Israel, but deliverance will come little by little and will be enlarged gradually, lest the redeemed be overwhelmed by it after living in such great sorrows.[60]

Again we can cite a modern "*midrash*" on the same textual variant. Why is the version with *magdil* recited in the Grace After Meals on weekdays, but the version with *migdol*, "tower," on Sabbath? Answer: because somewhere along the line a printer identified the latter version as coming from Second Samuel, abbreviating it in Hebrew as *ShB* (for *Shemuel Beth*) – and this was misinterpreted as an abbreviation for *ShBT*, Sabbath! Whether or not that is a true story, it certainly serves as a modern mnemonic for those familiar with the liturgy but not so sure about every letter of the biblical text.

Midrash as Chronology

The margins of some printed Bibles feature a complete system of dates based on inner biblical chronology. This is especially true of Christian Bibles, notably the Authorized (King James) Version in English; it regularly prints the (mis)-calculations of Bishop Ussher (1581–1656) who came up with a starting date for Creation at 4004 B.C.E. Jewish calculations are based on the *Seder Olam Rabbah* (second century C.E) and the *Seder Olam Zuta* (fifth to eighth centuries C.E.), two chronographic works dating to the tannaitic and amoraic/geonic periods respectively.[61] On their basis, the Era of Creation or Era of the World started in 3760 B.C.E.

60 Cf. also Cohen, *Otzar Hattehillim*, 1:210.

61 Chaim Joseph Milikowsky, "*Seder Olam: Rabbinic Chronography*." (Ph.D. diss.; Yale Univ. 1981).

Suffice it to say that no such convenience as marginal dates existed in the Jewish Bible editions available to the Rabbis. Rabbinic exegesis, however, provided *midrashim* to replace such marginal notations from time to time. Thus, for example, the *midrash* to Ps 26:9 informs us that when the long-lived Methuselah finally died, God waited another seven days before bringing on the Flood out of regard for the memory of this pious man. This *midrash* may serve as a handy explanation for the mysterious seven days of the biblical tale of the flood in Gen 7:4 and 10, though a readier explanation may be sought in the Mesopotamian prototypes. It may also be intended to provide antediluvian precedent for the custom of a seven-day mourning period (*shivᶜah*). But its chief interest from the present point of view is that it reminds us that the death of Methuselah fell, according to the biblical reckoning, exactly in the year of the flood (1656 of the Era of Creation). This coincidence was not lost on modern interpreters. A painting by John Martin (1789–1854) entitled "The Eve of the Deluge" includes the "white bearded figure of Methuselah, surrounded by the family of Noah."[62] Isaac Bashevis Singer devoted a short story to "The Death of Methuselah" (and named a whole volume of stories after it), and in it recalls that "God's decision to release the Flood was about to take place" upon "the death of Methuselah."[63]

Conclusion

The hypothesis of a mnemonic function for aggadic *midrash* is not mutually exclusive with nor made at the expense of other interpretations of the genre, some of them surveyed at the beginning of this article. That the mnemonic function has not previously been invoked as an explanation of *midrash* may be because memorization has ceased to play a major role in contemporary Judaism, and contemporary western culture, in the face of the emergence of alternative methodologies, written and now even electronic. But its role in the past should not be overlooked. Precisely because it lacks analogies in other hermeneutical systems, we are justified in seeing it as a, perhaps even *the*, Jewish form of biblical exegesis *par excellence*.

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62 Marion C. Stewart, *John Martin: Visions of the Biblical Flood* (brochure) (San Francisco: Fine Arts Museum, 1997).

63 Hallo, "Information from before the Flood" (above, n. 23), 179f. for all the references.

"Know What to Answer the Epicurean"

A Diachronic Study of the *ʾApiqoros* in Rabbinic Literature

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This essay traces rabbinic usage and understanding of the term *ʾapiqoros* from tannaitic literature through the redactional layer of the Babylonian Talmud, showing that sources identified as tannaitic, amoraic, and editorial reflect a sequential, conceptual development in the term's usage. While the word *ʾapiqoros* is used colloquially today to refer to a Jewish heretic or dissenter, it meant something much more specific in tannaitic literature, and its meaning evolved and changed considerably after that period. While *tannaim* associated the *ʾapiqoros* with Greek philosophy, *amoraim* placed the term in the context of disrespect for Torah, and, still later, the editor of the *Bavli* conflated it with a phonetically similar Aramaic word for irreverence. The essay thus serves as a useful demonstration of how intellectual history can be traced using rabbinic sources.

The word *ʾapiqoros* (אפיקורוס), the Hebrew equivalent of the Greek "Epicurean," is used today to refer to a Jewish heretic or dissenter, and sometimes connotes one who is learned but nevertheless rejects fundamental religious principles or behaviors. Appearing first in tannaitic literature, the word *ʾapiqoros* is found in rabbinic texts throughout their many stages of development. However, its meaning throughout those stages is not consistent. This essay traces rabbinic usage and understanding of the term *ʾapiqoros* from tannaitic literature through the redactional layer of the Talmud, and shows that the sources identified by the Babylonian Talmud as tannaitic, amoraic, and stammaitic indeed reflect a chronological progression in the use of the term under consideration.

When *tannaim* refer to the *ʾapiqoros* there is little doubt that they have in mind followers of the ancient philosophical school of Epicureanism,[1] flourishing at that time in Palestine and elsewhere.[2] By the third century C.E., however,

1 Lieberman, Urbach, and Goldin all take for granted that the *tannaim* were referring to Epicureanism. See Saul Lieberman, *Texts and Studies* (New York: Jewish Theological Seminary of America, 1950) 129; Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams (Jerusalem: Magnes Press, Hebrew Univ., 1975) 29; Judah Goldin, *Studies in Midrash and Related Literature* (New York: The Jewish Publication Society, 1988) 60. See also Solomon Judah Leib Rappaport, *Sefer Erekh Milin* (1852. Repr.; Jerusalem: Makor, 1969) 181, s.v. אפיקורוס.

2 See Norman De Witt, *Epicurus and his Philosophy* (New York: Meridan Books: The World

the main Greek philosophical schools, Stoicism, Epicureanism, and Scepticism, were significantly waning, and by the fourth century Epicureanism had basically disappeared.[3] A gap of a century or more separated *amoraim* from popular Epicureanism. Therefore, neither Palestinian nor Babylonian *amoraim* ever encountered any Epicureans, a fact which either generated or reinforced the sense that these Rabbis were not bound to maintain that *ʾapiqoros* meant Epicurean, even if they understood the historical and philosophical meaning of that term. It was obvious to them, from the tannaitic literature they had inherited, that an *ʾapiqoros* was something decidedly negative, but in the absence of real Epicureans, they could, and did, give free reign to their imaginations to construct new definitions.

In defining the *ʾapiqoros*, the early *amoraim* would draw upon the exegesis of a verse that appears in *Sifre Numbers* 112. This *midrash*, however, does not itself constitute a tannaitic description of the *ʾapiqoros* any more than do the several appearances of the term in the Mishnah or Tosefta. Nevertheless, whether purposefully or inadvertently, the early *amoraim* would construe the *midrash* as the closest the *tannaim* come to defining the *ʾapiqoros*. The definition they would perceive points to one who rejects the divine origin of the Torah or neglects the study of Torah. Expanding upon this, over the course of subsequent generations, the meaning of the *ʾapiqoros* focuses increasingly upon an irreverence for learning or for teachers.

As I will demonstrate below, by the time of the redactional layer of the *Bavli*,[4] the Aramaic word *ʾafqiruta*ʾ, used elsewhere to mean a particular type of irreverence or disrespect for a teacher, comes to be used as a synonym for the transgression of the *ʾapiqoros*. Though the meanings of the two words are actually unrelated, the *Bavli*'s redactors regard them as synonymous.

From the resulting talmudic conception of the *ʾapiqoros* emerges a long history of rabbinic discussion, to which today's common parlance is heir. One important result of this study is to show that rabbinic texts are historically layered; in tracing the development of one particular term and concept, we can see that texts and citations purporting to be tannaitic are in fact representatve of earlier

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Publishing Company, 1954) 3 and Howard Jones, *The Epicurean Tradition* (London: Routledge, 1989) 64.

3 Scepticism had already collapsed in the first century B.C.E., but Stoicism remained dominant into the second century C.E., with Epicureanism as its main rival. However, after gradual decline, by the mid-third century these schools gave way to various forms of Platonism and were no longer "active movements." Michael Frede, "Epilogue," in Keimpe Algra, et al., eds., *The Cambridge History of Hellenistic Philosophy* (Cambridge: Cambridge Univ. Press, 1999) 793. See also Giovanni Reale, *The Schools of the Imperial Age: A History of Ancient Philosophy*, ed. and trans. John R. Catan (New York: State Univ. of New York Press, 1990) 49.

4 Approximately the sixth or seventh centuries C.E.

traditions than those which purport to be amoraic or stammaitic. We will first provide a brief history and definition of Epicureanism and then examine each of the rabbinic texts relevant to the use and development of the term *ʾapiqoros*.

The Greek Etymology of the Word *ʾApiqoros*

Modern philologists are generally in agreement that the word *ʾapiqoros* is a Hebrew transliteration of the Greek word for either Epicurus or Epicurean.[5] Joseph Geiger explains that the word entered Hebrew from Greek already in the form of the generic "Epicurean," rather than as the proper name Epicurus, the founder of Epicureanism, to be transformed into a generic term by Hebrew speakers. Had the transformation occurred from within Hebrew, the form of the resultant word would have been slightly different. Geiger therefore explains that the generic form "Epicurean" itself originated in Greek, and it is on this that the Hebrew is based.[6]

Tannaitic Familiarity with Epicureans and Epicureanism

Epicureans flourished in Palestine, among many other places, during the tannaitic period,[7] and they missionized ardently. Every adherent and convert was charged with the task of missionizing, and many traveled with Epicurean pamphlets to distribute. Thus, Epicurean missionizing persisted throughout the school's existence.[8] Consequently, *tannaim* must certainly have been familiar with Epicureanism. The question is how familiar they actually were.

According to Saul Lieberman, it should not be assumed that the *tannaim*

5 Natan b. Yeḥiel, *Aruch Completum*, ed. Alexander Kohut (8 vols., Vienna: Georg Braun, 1872–92. [Samuel Krauss, *Tosefet he'Arukh*, 1937]. Repr.; Jerusalem: Makor, 1969/70) 1:233, s.v. אפיקורוס; Samuel Krauss, *Griechische und Lateinische Lehnwörter im Talmud, Midrasch und Targum* (2 vols., Berlin: Calvary, 1889–99. repr.; Hildesheim: Georg Olms, 1964) 2:107–8, s.v. אפיקורוס; Jacob Levy, *Neuhebräisches und Chaldäisches Wörterbuch über die Talmudim und Midraschim* (4 vols.; Leipzig: Brockhaus, 1876) 1:143, s.v. אפיקורוס.

6 Joseph Geiger, "לתולדות המונח אפיקורוס," Tarbiz, 42 (1973) 499–500. J. Kaempf, followed by Judah Goldin (*Studies*, 62), defines *ʾapiqoros* as "Epicurus," the philosopher himself. He explains that this can be read in the same way that the word ישראל, though the name of an individual, represents a group and actually stands for the word ישראלי. J. Kaempf, "Horae Semiticae," *Monatschrift für Geschichte und Wissenschaft des Judentums* 12 (1863) 143–48.

7 See De Witt, *Epicurus*, 3 and Jones, *The Epicurean Tradition*, 64.

8 Jones, *The Epicurean Tradition*, 64. See also De Witt, *Epicurus*, 3 and A. A. Long, *Hellenistic Philosophy: Stoics, Epicureans, Sceptics* (Berkeley: Univ. of California Press, 1986) 17 building on De Witt. For an example of the Epicurean commitment to missionizing at the end of the second century, see A. D. Nock, *Conversion* (repr.; Lanham, Md.: Univ. Press of America, Inc., 1988) 172.

knew anything deeper than "current general phrases," and he writes of a "general impression" of Epicureanism.[9] But Lieberman's description does not necessarily imply a particularly scant familiarity. Since Epicureans missionized vigorously, the Rabbis may have encountered them somewhat regularly, and might have been able to read or at least hear the epitomes that encapsulated Epicurean philosophy and theology.[10]

Lieberman insists, however, that since Greek philosophical terms are not employed in rabbinic literature, the Rabbis' knowledge of Greek philosophy was limited. Their knowledge of Greek philosophy was the product of conversations with Greeks and Greek scholars, sometimes attained through travels to Greek communities outside of Palestine.[11] Similarly, Judah Goldin emphasizes that "the rabbis were not Platos in Hebrew disguise, nor were they students (much less disciples) of Plato."[12] Consequently, there is no reason to consider the Rabbis' knowledge of Epicureanism to be any different from that of a beginning Epicurean student who would be familiar only with the general concepts.[13]

Even so, this level of knowledge was certainly enough for them to grasp doctrines which they considered heretical, such as the Epicurean denial of divine providence. Epicureanism was a polytheistic theology which taught that there was no divine interest in human affairs, no providence, and certainly no reward or punishment for human behavior. Epicureans considered belief in divine providence to be the fundamental source of human anxiety; religion based on such belief was superstitious, and religiosity amounted to little more than terror.[14]

We now proceed to a detailed examination of the tannaitic sources, which will demonstrate the Rabbis' familiarity with Epicureans and Epicureanism.

9 Lieberman, *Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary, 1985) 130.

10 Epicurus prepared epitomes summarizing his philosophy for the benefit of beginning students, and many Epicurean books were fundamentally for the purpose of popularization. Reale, *Ancient Philosophy*, 188, and Long, *Hellenistic Philosophy*, 12 and 18. Epicurus conceived of the process of learning as moving from the general to the more detailed. For the benefit of the beginner, he reduced complex ideas to simple principles. See De Witt, *Epicurus*, 4, and Diogenes Laertius, *Lives of Eminent Philosophers*, trans. R. D. Hicks (Cambridge, Mass.: Harvard Univ. Press, 1970) 10:35–36.

11 Lieberman, *Hellenism*, 130–31.

12 Goldin, *Studies*, 59.

13 There is evidence suggesting that the Epicurean lifestyle was in fact embraced even by those who did not seek out or even understand philosophy. The Stoic philosopher Seneca wrote of Epicurus in the first century C.E., "Mark how greatly he is admired, not only by the more cultured, but also by this ignorant rabble." *Epist.*, 79.15, quoted in Reale, *Ancient Philosophy*, 42.

14 Long, *Hellenistic Philosophy*, 41–46. See also Diogenes Laertius, X.139, 2:663: "A blessed and eternal being has no trouble himself and brings no trouble upon any other being; hence he is exempt from movements of anger and partiality, for every such movement implies weakness."

Mishnah ʾAbot 2:14

רבי אלעזר אומר,	R. Eleazar says,
הוי שקוד ללמוד תורה,	Be diligent to study Torah,
ודע מה שתשיב לאפיקורוס.	and know what to reply to an Epicurean,
ודע לפני מי אתה עמל.	and know before whom you toil.
ונאמן הוא בעל מלאכתך	And reliable is your Employer
שישלם לך שכר פעולתך:	to pay you your wages.

Judah Goldin describes this *mishnah* as an "Epicurean polemic," but he challenges this version of the polemic with Geniza manuscripts that bear "unquestionably the correct reading."[15] Whereas the version in the printed edition of the Mishnah deviates from this section of *ʾAbot*'s use of tripartite statements of *tannaim*[16] by including four parts, the manuscript version cited by Goldin conforms to that style perfectly. That version reads: "Be diligent to learn how to answer an Epicurean, know in whose presence you toil, and faithful is your taskmaster."[17] The manuscript version deals only with replying to an Epicurean, knowledge of human subservience to God, and divine faithfulness; it leaves out mention of Torah study entirely. The context into which this *mishnah* places Epicureanism is that of God's relationship to human activities. This understanding of Epicureanism corresponds to Lieberman's assertion that the most blatant disagreement between Epicurean and Jewish theologies seems to have been the former's denial of divine providence.[18]

Several further observations about this *mishnah* will elucidate the place of the Epicurean in the Palestinian society of the Rabbis. First, the *mishnah* does not define what an *ʾapiqoros* is, but rather assumes its audience understands the term. This will change later, when *amoraim* who have inherited the term

15 Goldin, *Studies*, 61.

16 David Halivni, *Midrash, Mishnah and Gemara* (Cambridge, Mass.: Harvard Univ. Press, 1986), 47. Albeck also notes that the fourth line in the printed edition varies in the manuscripts and was probably a later addition. See Chanoch Albeck, ed., *Shishah Sidre Mishnah* (6 vols.; Jerusalem: Bialik Institute and Dvir Co., 1953) 4:485.

17 Goldin, *Studies*, 61 (his translation). Goldin lists the following fragments from the Taylor-Schechter Collection, Cambridge Univ. Library: E3, 40, 55, 63, 74, 82, 93, 103, 111, 124, 128, 141. The text in these fragments varies slightly in such details as spelling, the use of את האפקיורוס or לאפקיורוס and, in several, the substitution of בריתך for מלאכתך, but the content of the *mishnah* as Goldin translates it is consistent. Thus, for example, fragment 55 reads: הוי שקוד ללמוד מה שתשיב לאפיקורוס ודע ל[פ]ני מי אתה עמל ומי הוא בעל מלאכתך. This is also Maimonides' version: ר׳ אלעזר אומר, הוי שקד ללמוד מה שתשיב את אפיקורוס ודע לפני מי אתה עמל, ומי הוא בעל מלאכתיך. See Y. Kafiḥ, ed., *Mishnah im Peirush Rabeinu Mosheh ben Maimon* (6 vols.; Jerusalem: Mossad Harav Kook, 1964) 4:429.

18 Lieberman, *Hellenism*, 130.

from earlier sources struggle to reconstruct its meaning. However, in the second century, as noted above, Epicureans still flourished and *tannaim* could have confronted them frequently.

Also, the directive in this *mishnah* is not to avoid *becoming* an Epicurean, but to know how to respond to, or to refute him properly. As explained above, Epicureans missionized and handed out pamphlets discussing all sorts of Epicurean ideas. The Rabbis, as intellectuals, were likely targets for such missionizing. The Rabbis in turn apparently did not take these encounters lightly, and engaged in debate with Epicureans.[19] R. Eleazar's directive assumes that Epicureans are instigating discussions (since he speaks of responding or refuting, not of asking or seeking out) and that Rabbis are engaging with them. The problem he seeks to avoid is inappropriate or insufficient responses to the Epicureans. This will be relevant below when we examine how the focus of the Rabbis' concern later shifts.

One question that remains unclear in the *mishnah* is whether an *ʾapiqoros* is a type of Jew or if he is a complete outsider. Goldin writes that the *mishnah* probably refers to a Jewish Epicurean,[20] but he does not make an argument to support this point. One support for this assumption might be that the Rabbis would have had no reason to engage with the Epicurean at all or attempt to teach him were he not a Jew. However, it is equally plausible for the Rabbis to be responding to non-Jewish Epicureans, as they were equally threatening in their potential influence on Jews.

What is clear from the *mishnah* is that R. Eleazar, and at the very least the colleagues among whom he made this statement, were familiar with Epicureans and a basic tenet of their philosophy: the lack of divine interest or intervention in this world. R. Eleazar stressed the importance of acknowledging one's subservience to God in the context of retorting to Epicurean missionizing. Further, in other tannaitic material, to which this essay now turns, the Rabbis make evident their extremely negative attitude towards Epicureans in addition to their particular points of contention.

Mishnah Sanhedrin 10:1

כל ישראל יש להם חלק לעולם הבא, All Israel have a share in the world to come,

שנאמר, ועמך כולם צדיקים לעולם יירשו ארץ נצר מטעי מעשי as it is said, *And your nation are all righteous; forever they will inherit the land, the branch of*

19 Although this *mishnah* need not presuppose actual debates with Epicureans, it is nonetheless significant that the Rabbis imagined such debates (or potential debates) as threats worthy of combatting with a clear directive such as the one in this *mishnah*.

20 Goldin, *Studies*, 62.

ידי להתפאר (ישעיה ס:כא).[21] *my planting, the work of my hands, to be glorified* (Isaiah 60:21).

ואלו שאין להם חלק לעולם הבא: And these have no share in the world to come:

האומר אין תחיית המתים מן התורה,[22] The one who says there is no [way to learn] resurrection of the dead from the Torah,

ואין תורה מן השמים, and Torah is not from Heaven,

ואפיקורס. and an Epicurean.

רבי עקיבא אומר, Rabbi Akiba says,

אף הקורא בספרים החיצונים, Also one who reads from external books,

והלוחש על המכה and one who whispers over a wound

ואומר, כל המחלה אשר שמתי במצרים לא אשים עליך כי אני ה' רפאך (שמות טו:כו). and says, *All of the sickness that I put upon Egypt I will not put upon you, because I am the Lord your healer* (Exodus 15:26).

אבא שאול אומר, Abba Saul says,

אף ההוגה את השם באותיותיו: Also one who pronounces the name [of God] with its letters.

M.Sanh. 10:1 provides a list of all those who do not have a place in the world to come. Including the first anonymous opinion of the *mishnah*, Rabbi Akiba's and Abba Saul's views, the list comes to six types of people. For the present study, only the first anonymous opinion of the *mishnah* is relevant, as the third in that list is the Epicurean.

As in *ʾAbot*, this *mishnah*'s author assumes his audience understands what is meant by "Epicurean." However, this *mishnah*'s polemic differs from the previous one. In *ʾAbot* the Epicurean is not considered to be among the students of the Mishnah; rather, he is a person with whom the students will interact. Here, the student is being warned against the consequence of actually *being* an Epicurean himself. Punishment is threatened in order to deter one from becoming (or remaining) an Epicurean. This may be what motivates Judah Goldin's assertion that *ʾapiqoros* refers specifically to a Jewish Epicurean.[23]

Several things can be learned from this *mishnah* about the tannaitic conception of the Epicurean. First, it should be noted that God is the one who punishes the Epicurean. The problematic nature of being an Epicurean is theoretical or intellectual, rather than practical enough to be included within any

21 This first section is missing in MS Kaufmann.

22 This text appears in the Yemenite manuscript and the printed edition, but the Cambridge, Parma, Paris, and Kaufmann manuscripts exclude the phrase מן התורה.

23 Goldin, *Studies*, 62.

of the other chapters of tractate *Sanhedrin*, which deal with practical offenses punishable by the rabbinic court. One cannot help but notice the correspondence between the punishment and the crime for the first offender on the list; the one who denies the resurrection of the dead (or minimally, its foundation in the Torah),[24] which is naturally linked with the world to come, is denied a place in the very world to come that he denies. Perhaps this correspondence speaks also to the Epicurean, who denies divine reward and punishment, and is thereby excluded from divine reward in the world to come. The punishments for these offenses are particularly appropriate.

Further comparison to the other two offenses may be helpful in determining what the Rabbis meant by "Epicurean." The other two offenders, "the one who says there is no [way to learn] resurrection of the dead from the Torah and [the one who says] that Torah is not from Heaven," are both deniers of what the Rabbis consider essential religious truths. Epicureans may smoothly fit into this list given their denial, described above, of divine providence and interest in the world. Since the first two offenses are denials of very specific ideas, it stands to reason that the term Epicurean is used to signal a similarly specific point of denial. One may therefore speculate that, among the salient characteristics of Epicureanism, the Rabbis seem to focus on its outright denial of providence rather than upon its missionizing, hedonism,[25] or metaphysical theories.

It is important to note that the Rabbis could have, but did not, admix other theological impieties into the definition of Epicureanism. They could have done this in order to use the concept of Epicureanism, which is clearly offensive, to emphasize the offensiveness of other religious ideas. Rather, Epicureanism is distinguished from other problematic ideas when it is included here in a list of offenses that should probably be understood as mutually exclusive.[26] The Epi-

24 See n. 22.

25 Norman De Witt insists that Epicurus' brand of hedonism was an "altruistic hedonism" that went hand in hand with a philosophy and life characterized by "candor, charity, courtesy, and friendliness," stressing social virtues. See De Witt, *Epicurus*, 8. However, though an advanced student in the ancient world would understand the sophisticated nature of pleasure that Epicurus in fact supported, someone familiar merely with aphorisms or basic concepts might be misled by the repeated mention of pleasure and infer a more base hedonism. On Epicurean hedonism and its critics, see also Michael Erler, "Epicurean Ethics," *The Cambridge History of Hellenistic Philosophy*, 648–57, and Long, *Hellenistic Philosophy*, 61–69.

26 It is clear that the Talmud treats such lists as mutually exclusive (for example, see below, *y.Peah* 1:1, 16c). One must of course ask whether the original intent of the list was mutual exclusivity. Strictly speaking, a statement involving such a list does not force an interpretation of mutual exclusivity. However, this form of list is a type of what the logician H. P. Grice called "conventional implicature," and it is appropriate to assume that there is at least a contrast among the members of the list. Conventional implicature means that, having uttered a particular sentence, the speaker is committed to proposition *p*, even though the sentence does not *entail* proposition *p*. For example, "uttering the sentence 'She was poor but she was honest' implicates, but does not *say*, that there is a contrast between poverty and honesty." See Michael McKinsey, "Implicature,"

curean is *not* a denier of the biblical origin of resurrection of the dead or of the divine origin of the Torah. The Epicurean is also distinguished from the particular actions listed by Rabbi Akiba and Abba Saul. The narrowness of its possible scope here is important to note, as later in rabbinic literature the meaning of the term *ʾapiqoros* is broadened far beyond the bounds of Epicureanism.

Tosefta Sanhedrin 13:5[27]

אבל	But
המינין	the sectarians
והמשומדים	and the apostates
והמסורות	and the informers
ואפיקורסין	and the Epicureans
ושכפרו בתורה	and those who have denied the Torah
ושפורשין מדרכי ציבור	and those who separate from the ways of the community
ושכפרו בתחיית המתים	and those who have denied the resurrection of the dead
וכל מי שחטא והחטיא את הרבים	and anyone who has sinned and had caused
כגון ירבעם ואחאב	the public to sin such as Jeroboam and Ahab
ושנתנו חיתיתם בארץ החיים	and who have tyrannized the land of the living
ושפשטו ידיהם בזבול	and who have stretched out their hands against the Dwelling [Temple] –
גיהנם נינעלת בפניהם	Gehinnom is locked before them
ונידונין בה לדורי דורות	and they are tortured in it for all generations,
שנאמר, ויצאו	as it is said, *And they will go out*
וראו בפיגרי האנשים הפושעים בי	*and see the carcasses of the people who sin*
כי תולעתם לא תמות	*against me, because their worm will not die*
ואשם לא תכבה	*and their fire will not go out*
והיו דראון לכל בשר	*and they will be an abhorrence to all flesh*
(ישעיה סו:כד).	(Is 66:24).
שאול בלה והן אונן בלין	Sheol will wear away, but they will not wear
שנאמר, וצורם לבלות שאול	away, as it is said, *their form will wear away*
(תהלים מט:טו).	*in the grave* (Psalms 49:15).
מי גרם להן?	What caused it for them?

The Cambridge Dictionary of Philosophy (2nd ed.; Cambridge: Cambridge Univ. Press, 1999) 420. Although the *mishnah* is less clearly a case of such implicature since it uses the conjuctive "and" rather than the disjunctive "but," in both cases there is some distinction among the members of the list.

27 Text and critical apparatus from M. S. Zuckermandel, ed., *Tosefta: Based on the Erfurt and Vienna Codices* (Pasewalk: self-pub., 1881–82. Repr.; Jerusalem: Wahrmann Books, 1970). Cf. *b.Rosh Hash.* 17a.

שפשטו ידיהם בזבול, שנאמר מזבול לו (שם),
ואין זבול אלא בית המקדש שנאמר, בנה בניתי בית זבול לך מכון לשבתך עולמים (מ״א ח:יג).

That they stretched their hands against the Dwelling [Temple], as it is said, *Each from his dwelling* (Psalms 49:15),
and there is no "dwelling" other than the Temple, as it is said, *I have built a dwelling for You, a place for You to sit forever* (1 Kings 8:13).

This *halakhah* is similar thematically to the *mishnah* in *Sanhedrin*. It is a list of sinners who are punished after their death, among whom are the Epicureans. This is a list of the worst sinners, since the previous *halakhah* describes the punishment for the sinners of Israel and of the other nations, which is much less severe than the punishment for this more specific list.

Like the *mishnah* in *Sanhedrin*, this tradition provides us with a specific list of offenses mutually exclusive of Epicureanism. A difference between this list and the one in the Mishnah is that here the offenders are not merely deniers. Two offenders on the list are deniers – of Torah and of the resurrection of the dead – but the inclusion of other offenses, such as separating from the ways of the community, allows for broader possibilities of what the Rabbis could have meant when they referred to an Epicurean. Since the nature of the offense is not necessarily a specific denial, perhaps the author of this *halakhah* meant to refer not only to the Epicurean denial of providence, but also to the hedonism, missionizing, or other aspects of Epicurean philosophy and practice that offended the Rabbis.[28] This is largely speculation, but based on the tannaitic familiarity with Epicureanism discussed above and analysis of the sources presented, it is plausible that the Rabbis' disdain towards Epicureans encompassed more than the single heresy of denial of divine providence.

Having now examined the three main tannaitic sources that employ the word *ʾapiqoros*, we may characterize the early Rabbis' understanding and use of the term. An *ʾapiqoros* was a member of the missionizing Epicurean school of philosophy which, among other heresies or impieties, denied divine providence. Admittedly, three sources are not a great deal on which to base firm conclusions about the tannaitic perception of Epicureans. However, these general conclusions are nonetheless useful, especially in light of general scholarship about the missionizing activity of Epicureans.

Not much later, Rabbis were less sure of the meaning of the word *ʾapiqoros* and how to use it. This is clearest in *b.Sanh.* 99a–100a. We will now examine

28 As I have noted, each member of the list should probably be considered distinct from the other. While this certainly applies here as well, I believe it is appropriate at the same time to use context as a guide in understanding the use of the word *ʾapiqoros*. The list does not seem arbitrary, so although each term must be considered independently, contextual setting may play a role in understanding how the term is being used.

the tannaitic source that influenced the *amoraim* in their definitions of the *ʾapiqoros*, which are ultimately reflected in the *Bavli*.

Sifre Numbers 112[29]

כי דבר ה' בזה (במדבר טו:לא) זה צדוקי.
Because he has spurned the word of the Lord (Numbers 15:31): This is a Sadducee.

ואת מצותו הפר (שם) זה אפיקורוס.
And His commandment he has broken (Num 15:31): This is an Epicurean.[30]

ד"א
A different interpretation:

כי דבר ה' בזה זה **המגלה פנים בתורה**.
Because he has spurned the word of the Lord (Num 15:31): This is **one who shows contempt for the Torah**.[31]

ואת מצותו הפר זה **המפר ברית בשר**.
And His commandment he has broken (Num 15:31): This is **one who breaks the covenant of flesh**.

מיכן אמר רבי אלעזר המודעי, המחלל את הקדשים והמבזה את המועדות והמפר בריתו של אברהם אבינו אע"פ שיש בידו מצות הרבה כדיי הוא לדחותו מן העולם (אבות ג:יא).
From this R. Eleazar Hamodai said, 'He who desecrates that which is consecrated and spurns the appointed times and breaks the covenant of Abraham our father, even though he fulfills many commandments, is worthy of being removed from the world' (*m.ʾAbot* 3:11).

אמר כל התורה כולה אני מקבל עלי חוץ מדבר זה – זהו כי דבר ה' בזה.
[If one] said, 'All of the Torah I accept upon myself except for this thing' – he is [the referent of the verse] *Because he has spurned the word of the Lord.*

אמר כל התורה אמר מפי הקודש ודבר זה משה מפי עצמו אמרו – זהו כי דבר ה' בזה.
[If one] said, 'All of the Torah he transmitted from the mouth of the Holy One, but this thing Moses transmitted on his own [authority] – he is [the referent of the verse] *Because he has spurned the word of the Lord.*

29 Text from H. S. Horowitz, ed., *Siphre d'be Rav* (Leipzig: Gustav Fock, 1917. Repr.; Jerusalem: Wahrmann Books, 1966) 121.

30 MS London and *Yalkut Shimoni* omit these first two definitions. These lines, however, seem central to the development of the rabbinic definition of the *ʾapiqoros*. Specifically, the authors/editors of the Babylonian Talmud's pericope quoting this piece (*b.Sanh.* 99b–100a) apparently knew these lines, and they appear there in every manuscript. See my discussion of that pericope below.

31 For a different rendering of מגלה פנים בתורה, see N. H. Tur-Sinai, *The Language and the Book: Beliefs and Doctrines* (3 vols.; Jerusalem: Bialik Institute, 1955) 3:261–62. My thanks to the anonymous reader who directed me to this reference.

ד״א	A different interpretation:
כי דבר ה׳ בזה	*Because he has spurned the word of the Lord*
ר׳ מאיר אומר,	R. Meir says,
זה הלמד ואינו שונה לאחרים.	This is the **one who learns but does not teach others.**
ר׳ נתן אומר,	R. Nathan says,
זה היכול ללמוד ואינו לומד.	This is the **one who is able to learn but does not learn.**
ר׳ נהוראי אמר,	R. Nehorai says,
זה שלא השגיח על דברי תורה כל עיקר.	This is the **one who does not consider the words of Torah at all.**
ר׳ ישמעאל אומר,	R. Ishmael says,
בעבודה זרה הכתוב מדבר,	The text is speaking of idolatry,
שנאמר, כי דבר ה׳ בזה	as it is said, *Because he has spurned the word of the Lord,*
שביזה על דבור הראשון שנאמר למשה מפי הגבורה:	since **he spurned the first statement [of the Decalogue] that was transmitted to Moses from the mouth of the Mighty One:**
אני ה׳ אלהיך לא יהיה לך אלהים אחרים על פני (שמות כ:ב–ג).	*I am the Lord your God; you shall not have other gods before me* (Exodus 20:2–3).

The ensuing discussion argues that this piece of *Sifre Numbers* is the tannaitic source for the main treatment of the *ʾapiqoros* in the *Bavli*, at *Sanh.* 99b–100a.[32] Unlike the *mishnayot* and the *halakhah* discussed above, here it is clear that the Epicurean is by no means the topic of this text. The word appears only once, in the first explication of Num 15:31. Regarding the Epicurean, this text shares two important characteristics with the previous texts presented. First, it assumes that the reader understands what is meant by the word "Epicurean"; there is no direct explanation of the term, and moreover it is used to explain and specify another more general phrase: ואת מצותו הפר.[33] Second, the Epicurean refers to a serious religious dissenter.

Although the word "Epicurean" appears only once in this text, the rest of the text plays a significant role in the amoraic treatment of the *ʾapiqoros*, and therefore requires attention at this point. It must first be noted that in addition to the fact that the word appears only once in *Sifre Numbers*, this mention

32 Much of it is quoted on *b.Sanh.* 99a, but I will specifically suggest a close link between it and the discussion of *ʾapiqoros* on the following folio in *Sanhedrin*.

33 It is theoretically possible that ואת מצותו הפר is being used to define אפיקורוס, rather than the reverse. This seems unlikely since such a definition is hardly specific enough to be useful.

of it has nothing to do with the continuation of the *midrash*. The first part of the verse, כי דבר ה׳ בזה, is the springboard for discussions about Torah, while the springboard for the anti-Epicurean polemic is the second part, ואת מצותו הפר. This latter part is explicated only one more time in the *midrash*, where it is applied to one who does not fulfill the commandment of circumcision. The explication of the first part of the verse enjoys a much longer and vibrant discussion, and it is these comments and others like it that precede the pericope about the *ʾapiqoros* in *b.Sanhedrin* and become the textual and conceptual basis for the definition of the term that they construct.

Following the initial exegesis that mentions the *ʾapiqoros*, the discussion of the verse, *Because he spurned the word of the Lord* contains a group of three and then a group of four definitions of the phrase, all of which I have placed in bold type above. The first definition is obscure, both in terms of its particular meaning and in terms of its place alongside the others. Literally, גילוי פנים means exposure of the face, a term which is subject to different explanations in various places in rabbinic literature.[34] This first definition warrants special attention, since the phrase "one who shows contempt for the Torah" reappears in *b.Sanhedrin* in connection with the *ʾapiqoros* and plays a significant role in the pericope there, as will be demonstrated below. In its context in *Sifre Numbers*, the entire line:

> *Because he has spurned the word of the Lord* (Num 15:31): This is one who shows contempt for the Torah. *And His commandment he has broken* (Num 15:31): This is one who breaks the covenant of flesh.

should be read as its own unit. "The one who shows contempt for the Torah" and "the one who breaks the covenant of the flesh" appear together six times in the *Bavli* and *Yerushalmi*.[35] In addition to this union's basis in *m.ʾAbot* 3:11, cited within the text of *Sifre Numbers*, it also stems from *t.Sanh.* 12:9. The latter text may be the source of further connecting "the one who shows contempt for the Torah" with the *ʾapiqoros*.

The Tosefta reads as follows:

> הוסיפו עליהם הפורק עול והמיפר ברית והמגלה פנים בתורה וההוגה את השם באותותיו שאין להם חלק לעולם הבא׃

> They added to these the one who casts off the yoke [of the commandments] **and the one who breaks the covenant and the one who shows contempt**

34 See, for example, *y.Sanh.* 10:1, 27c, which quotes *t.Sanh.* 12.9. See above, n. 31.

35 *B.Šebu.* 13a, *b.Sanh.*99a, *b.Yoma* 85b, *b.Ker.* 7a, *y.Yoma* 8:7, 45b3, *y.Šebu.* 1:6, 33b.

> for the Torah and the one who pronounces the Name with its letters, who also have no share in the world to come.

This *halakhah* and the two that follow it bear a number of similarities to *m.Sanh.* 10:1–2.[36] The Tosefta, however, includes "the one who breaks the covenant" and "the one who shows contempt for the Torah," where the Tosefta's mishnaic parallel does not; the Mishnah includes the *ʾapiqoros*, while the Tosefta does not. As shown above, *Sifre Numbers* uses the former two phrases following an exegesis that incidentally includes the term *ʾapiqoros*. There is no actual connection between the *ʾapiqoros* and "the one who shows contempt for the Torah," but the mention of the *ʾapiqoros* in a *mishnah* whose parallel in the Tosefta uses these other two phrases may have led to the assumption of a meaningful connection. Therefore, it is likely that the *amoraim*, otherwise unable to understand what *ʾapiqoros* really means, defined it in terms of what came to be considered its sister-term of sorts: "one who shows contempt for the Torah."

I now return to the text of *Sifre Numbers* and the rest of the definitions of *Because he has spurned the word of the Lord*. What is important to note about the group of seven definitions is how distinct it is, both in form and content, from the first unit of exegesis in the *Sifre*, which contains two short lines: "*Because he has spurned the word of the Lord* (Num 15:31): This is a Sadducee. *And His commandment he has broken* (Num 15:31): This is an Epicurean." While the first unit is short and refers to a type of person, the others (with the exception of the first) are longer and (with no exceptions) refer to a person who performs a type of action.

Each of the three sets of definitions for Num 15:31 is separated by the term "a different interpretation." The definitions each make up a coherent unit of exegesis on their own.[37] The presence of the word *ʾapiqoros* must be addressed in light of the fact that these three sets of definitions are independent of one another. The word *ʾapiqoros* appears in the *Sifre* only because it is one interpretation of part of a verse whose counterpart, *Because he has spurned the word of the Lord*, happens to be further explicated. Whether consciously or as a result of inadvertently confused tannaitic sources, the *amoraim*, for whom the meaning of the word *ʾapiqoros* was lost, likely used this section of *Sifre* to reclaim the term and to define it in terms of a religious dissension that was more rele-

36 The attributions of certain statements and their order are different in the two texts.

37 Even Max Kadushin, who argues for an organismic understanding of rabbinic literature and of the Rabbis in general, which might lead one to assume that he would read two different exegeses as related or interconnected, insists that "the independence of each haggadic statement is . . . inherent in the very nature of the rabbinic organismic complex." He notes repeatedly that the phrase "another interpretation" necessarily implies differentiation between independent interpretations. See Max Kadushin, *The Rabbinic Mind* (2nd ed.; New York: Blaisdell Publishing Company, 1965) 71, 72, 73, 74.

vant to their own social and historical context: popular attitudes towards Torah and Torah scholarship.

The Palestinian Talmud

Before proceeding to an examination of the *Bavli*'s treatment of the *ʾapiqoros*, two texts in the Palestinian Talmud are worthy of some attention. The first elucidates the relationship between "the one who shows contempt for the Torah" and the *ʾapiqoros*, and the second presents the earliest amoraic attempts to define and describe the *ʾapiqoros*.

Yerushalmi Peʾah 1:1, 16b (*y.Sanh.* 10:1, 27c)

תמן תנינן:	There we have learned:
אילו שאין להן חלק לעולם הבא:	These have no share in the world to come:
האומר אין תחיית מתים [מן התורה][38],	The one who says that there is no [way to learn] resurrection of the dead [from the Torah],
ואין תורה מן השמים,	and that Torah is not from Heaven,
ואפיקורוס.	and an Epicurean.
רבי עקיבה אומר,	Rabbi Akiba says,
אף הקורא בספרים החיצונים	Also one who reads from external books,
והלוחש על המכה ואומר כל	and one who whispers over a wound
המחלה אשר שמתי במצרי' לא אשים עליך כי אני ה' רופאך (שמות טו:כו).	and says: *All of the sickness that I put upon Egypt I will not put upon you, because I am the Lord your healer* (Exod 15:26).
אבא שאול אומר,	Abba Saul says,
אף ההוגה את השם באותיותיו.	And one who pronounces the name [of God] with its letters.
הוסיפו עליהן:	They added:
הפורק עול,	The one who casts off the yoke [of the commandments],
והמפר ברית,	and the one who breaks the covenant
והמגלה פנים בתורה	and the one who shows contempt for the Torah –
אין להן חלק לעולם הבא.	they also have no share in the world to come.
– הפורק עול	"The one who casts off the yoke [of the commandments]"–
זה שהוא אומר יש תורה ואיני	this is the one who says

38 מן התורה is lacking in MSS Vatican, Leiden, and *editio princeps*, but present in MSS London, Paris (Sirillo), and in all textual witnesses to *y.Sanh.* 10:1. See above, n. 22.

סובלה. there is Torah but I cannot bear it.
המפר ברית – "The one who breaks the covenant"–
זה שהוא מושך לו ערלה. this is the one who performs epispasm.
המגלה פנים בתורה – "The one who shows contempt for the Torah"
זה שהוא אומר This is the one who says that the Torah was
לא נתנה תורה מן השמים. not given from Heaven.

ולא כבר תניתה Did not the Mishnah already teach,
האומר אין תורה מן השמים? "The one who says that the Torah was given not from Heaven"?

תנא רבי חנניה ענתוניא קומי R. Ḥananiah Antonia taught before
רבי מנא זה שהוא עובר על R. Mana that this is the one who transgresses
דברי תורה בפרהסיא כגון the words of the Torah brazenly, like
יהויקים מלך יהודה וחביריו. Jehoiakim the king of Judah and his fellows.

In this text, *t.Sanh.* 12:9 and *m.Sanh.* 10:1 are juxtaposed as though they were one source. The first section is a citation of the Mishnah, the second is of the Tosefta. The third section looks like a tannaitic source as well, but it is found nowhere else in extant tannaitic literature, and Higger does not list any tannaitic sources for it in his *ʾOṣar Habaraitot*.[39] The final section, which is amoraic (although it presents R. Ḥananiah Antonia as repeating a tannaitic tradition before R. Mana), distinguishes the Tosefta's "one who shows contempt for the Torah" from the Mishnah's "one who says that the Torah is not from Heaven."

In this source, for the first time "the one who shows contempt for the Torah" and the *ʾapiqoros* are found in the same text and belong together on the same list. This firmly establishes the amoraic conception that these terms all have independent meanings. Further, the text explicitly treats "one who shows contempt for the Torah" as an unclear term that demands explanation. Although the *Yerushalmi* here does not question the meaning of *ʾapiqoros*, elsewhere in the *Yerushalmi* its ambiguity is apparent (see below). There will thus be two similarities between "the one who shows contempt for the Torah" and the *ʾapiqoros* from which the *amoraim* will draw in their attempt to define the latter: both terms are used (albeit separately) as explanations of the verse, *Because he has spurned the word of the Lord and His commandment he has broken* (Num 15:31), and they are both ambiguous terms.

Yerushalmi Sanhedrin 10:1, 27d

האפיקורוס – "The *ʾapiqoros*"–
רבי יוחנן ורבי לעזר: **R. Yoḥanan and R. Leazar:**

39 Michael Higger, *Otsar ha-Baraitot* (10 vols.; New York: Hotsa'at De-be Rabanan, 1938–48) 7:312. Higger only mentions its appearance as well in the *Bavli* and suggests a comparison with the *Sifre*.

חד אמר
כהן דאמר אהן ספרא.
וחרנה אמר
כהן דאמר אילין רבנין.

One said,
Such as one who said, "That scribe!"
And the other said,
Such as one who said, "Those Rabbis!"

רבי אלעזר ורבי שמואל בר׳ נחמן:
חד אמר
לכיפה של אבנים כיון שנתרועעה אחת מהן נתרועעו כולן.
וחרנה אמר
לבית שהוא מלא תבן אף על גב דאת מעבר ליה מינה אהן מוצא דבגויה הוא מרערע כתליא.

R. Eleazar and **R. Samuel b. Naḥman**:
One said,
[It is likened] to a dome of rocks; once one is weakened, all of them are weakened.
And the other said,
[It is likened] to a house that is full of straw; even though you take from it the chaff that is inside, it weakens the walls.

רב אמר קרח עשיר גדול היה תיסברין של פרעה נגלה לו בין מגדול ובין הים.

Rab said, Koraḥ was a very wealthy man. The treasuries of Pharaoh were revealed to him between Migdol and the sea.

רב אמר
קרח אפיקרסי היה. מה עשה?
עמד ועשה טליר׳ שכולן תכלת אתא גבי משה
אמר ליה משה רבינו
טלית שכולה תכלת מהו שתהא חייבת בציצית?
אמר לו חייבת דכתיב גדילים תעשה לך וגו׳ (דברים כב:יב).
בית שהוא מלא ספרים מהו שיהא חייב במזוזה
אמר לו חייב במזוזה דכתיב וכתבתם על מזוזות ביתך וגו׳ (דברים יא:כ).
אמר לו בהרת כגריס מהו?
אמר לו טמא. פרחה בכולו?
אמר לו טהור.
באותה שעה אמר קרח אין תורה מן השמים ולא משה נביא ולא אהרן כהן גדול.
באותה השעה אמר משה, רבון כל העולמים אם נברא לארץ פה

Rab said,
Korah was an *ʾapiqarsi*. What did he do?
He stood and made a shawl that was entirely of *tekhelet*. He came before Moses.
He said to him, "Moses our teacher, what is the law regarding a shawl that is entirely *tekhelet*? Does it require fringes?
He said to him, "It is required, as it is written, *You shall make for yourself fringes*" (Deut 22:12).
"What is the law regarding a house that is full of [Torah] scrolls? Does it require a *mezuzah*?"
He said to him, "It requires a *mezuzah*, as it is written, *And you shall write them on the doorposts of your house*" (Deut 11:20).
He said to him, "What is the law regarding a white spot on the skin the size of a bean?"
He said to him, "He is impure." "If it spreads out over his entire [body]?"
He said to him, "He is pure."
At that moment Koraḥ said, "The Torah is not from Heaven, and Moses is not a prophet, and Aaron is not a high priest."
At that moment Moses said, "Master of all the worlds, if a mouth was created for the

משׁשׁת ימי בראשׁית הרי מוטב earth in the six days of creation, this is
ואם לאו יברא לה מעכשׁיו good, and if not, let it be created now.
ואם בריאה יברא יי׳ *But if the Lord creates a creation*
(במדבר טז:ל). (Num 16:30).

This text is different from everything previously discussed in that it is the first to present *amoraim* defining the term *ʾapiqoros*. Whenever a definition is provided, one must assume that there was a question as to what the term meant, or at least room for flexibility in how to construe its meaning. Were *ʾapiqoros* a clearly defined term, no definition would be needed or offered, as is the case in the tannaitic sources about it. As explained above, by the third century, Epicureanism was severely declining if not disappearing, and there were no Epicureans in Palestine with whom R. Yoḥanan and R. Leazar, first generation Palestinian *amoraim*, would have come in contact. Hence, the meaning of the word *ʾapiqoros* was open to numerous different explanations.

The first two definitions in *y.Sanhedrin* are similar to each other: "Such as one who said, 'That scribe!'" and "Such as one who said, 'Those Rabbis!'" For R. Yoḥanan and R. Leazar, an *ʾapiqoros* is a person who is irreverent either toward the Torah or of the Rabbis. This perception of Epicureanism is not entirely unfounded historically. The Rabbis did not merely invent a new meaning for an archaic term. Benjamin Mussafia writes unequivocally that the amoraic understanding of the *ʾapiqoros* is consistent with the Greek word "Epicurean," and he cites this tradition in the *Yerushalmi* as proof.[40]

One support for this point may be found in Cicero's criticism of Epicurus in the first century B.C.E.[41]

> . . . [Epicurus] boasted that he never had a teacher. . . . He states that he heard a certain Pamphilus, a pupil of Plato, at Samos. . . . However Epicurus pours endless scorn on this Platonist, so afraid is he of appearing ever to have learnt anything from a teacher. He stands convicted in the case of Nausiphanes, a follower of Democritus, whom he does not deny he heard lecture, but whom nevertheless he assails with every sort of abuse. Yet if he had not heard from him these doctrines of Democritus, what had he heard? For what is there in Epicurus's natural philosophy that does not come from Democritus?[42]

In this passage, Cicero's critique of Epicurus is that his claim to be an autodidact is unfounded, even scandalous. Epicurus shows disrespect for the teachers

40 Kohut, *Aruch Completum*, 1:233.

41 H. Rackham, introduction to Marcus Tullius Cicero's *De natura deorum*., trans. H. Rackham (New York: G. P. Putnam's Sons, 1933) xiii.

42 Cicero, *Nat. d.*, I, 26.

who clearly influenced him, and in general disparages the idea of being a student of teachers. Though this passage is not an exact parallel to the sort of disrespect the *Yerushalmi* describes, it is similar in that it reflects a harshly negative attitude toward intellectual authority (which is intertwined with reli-gious authority, specifically in this work of Cicero on theology).[43]

It is possible that the Rabbis retained a tradition that the word *ʾapiqoros* refers to the type of irreverent person that Cicero describes and to which R. Yoḥanan and R. Leazar point in the *Yerushalmi*. Initially, this tradition would have been just one part of a rabbinic conception of Epicureanism in Palestine. However, it seems later to have outweighed the other associations that the *tannaim* likely had with Epicureanism. The tannaitic suggestions that the *ʾapiqoros* is a denier of divine providence or retribution are nowhere to be found in amoraic literature. Rather, what survived in amoraic literature was this tradition about Epicurean irreverence that coincided with a misreading (whether purposeful or inadvertent) of the *midrash* in *Sifre Numbers*.[44] This tradition may actually have been the impetus to read the *midrash* in the way the *amoraim* did. Nonetheless, it is clear that the *amoraim* relied on more than merely this possibly long-standing tradition in order to define the *ʾapiqoros*.

This point warrants explanation. *Amoraim* were searching for the meaning of a term or for an adequate articulation of whatever vague understanding of the meaning they had. Because words do not disappear or fall out of use instantaneously, it is reasonable to assume that some element of the connotations of *ʾapiqoros* was retained while it was becoming a less and less common word. This remnant may have guided the Rabbis' reading of the tannaitic sources they had. Early *amoraim* may have depended more on the historical tradition about Epicureans than on textual traditions. Later, as I will show below, *amoraim* grew to depend more on the tannaitic texts themselves (particularly *Sifre Numbers*),

43 Richard Kalmin informed me in a comment on a draft of this paper that in the ancient world it was common to libel one's enemies by saying that they did not respect authority, and that it is likely that Cicero's attack was polemical rather than historical. This should be kept in mind, but it has also been asserted independently of sources such as this one that Epicurus emphatically claimed to be an autodidact (Frede, "Epilogue," 783). Further, even if Cicero's comment is polemical, there may have been a tradition, inherited by the Rabbis irrespective of its historical validity, of such polemics particularly against Epicurus. Further, this criticism may have been linked with Epicurus' opposition to Platonism, which had been dominant in Greece, specifically in the field of education. Epicurus developed a new system of education, rejecting from his curriculum certain elements that were central for Plato, such as mathematics and rhetoric. (De Witt, *Epicurus*, 9, 108). Long goes so far as to say that Epicurus had no formal curriculum at all (*Hellenistic Philosophy*, 15).

44 It is important to remember that the amoraic reading of the *midrash* is not at all the plain meaning of the text as we have it; so the argument that the *midrash* itself is a reflection of tannaitic ideas about Epicurean irreverence towards teachers and the traditional curriculum seems untenable.

their understanding of which was perhaps spurred on by the historical tradition. Eventually, these tannaitic texts, as opposed to the historical tradition, became the main basis for defining the *ʾapiqoros*. Therefore, the amoraic definition of the *ʾapiqoros* may be called historical and conceptual, where conceptual refers to the concepts conveyed by the midrashic textual background.

To return now to the text of the *Yerushalmi*, the two speakers following R. Yoḥanan and R. Leazar are R. Eleazar and R. Samuel b. Naḥman.[45] This time, however, the *amoraim* do not define an *ʾapiqoros*. Rather, they describe the effect and the severity of an *ʾapiqoros* in the rabbinic community, presupposing the definitions offered by R. Yoḥanan and R. Leazar. The description of the *ʾapiqoros* as dangerous to the general population[46] seems apropos. Richard Kalmin argues that the Sages of Palestine had informal contact with non-Rabbis.[47] This contact created a relatively integrated society of individuals with great knowledge and commitment to Torah interacting with individuals with meager knowledge and probably less commitment. Because of this makeup of the community, a person who rejects the rabbinic project is dangerous in the eyes of the Rabbis because they threaten to draw astray members of the community who are non-Rabbis. Those who reject the rabbinic project are not simply an affront to the Rabbis, but they are a danger to the fabric of society, which is made up of both Rabbis and non-Rabbis.

The relatively tenuous position of the Palestinian Rabbis in society[48] is reflected in this felt danger of those who were verbally disrespectful of the rabbinic project. This situation was not entirely unique to Palestine. In Babylonian sources a similar threat can be perceived, as will be shown below, but in Babylonia, the reason the Rabbis may have felt this threat is not necessarily because of the particular communal closeness between Rabbis and non-Rabbis.[49] Rather, it is because, as Shaye J. D. Cohen writes, "The Babylonian rabbis, whose attempts to promulgate rabbinic Judaism met the resistance of many of their coreligionists,

45 "R. Leazar" and "R. Eleazar" may be references to the same person.

46 They may be referring more specifically to a threat to the rabbinic community, but in either case, the *ʾapiqoros* is portrayed as having a somewhat broad sphere of influence.

47 Richard Kalmin, *The Sage in Jewish Society of Late Antiquity* (New York, Routledge: 1999) 27–50. See also Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: Jewish Theological Seminary of America, 1985) 192–95.

48 Kalmin, *Sage*, 28.

49 It should be noted that the *Bavli* attributes these expressions to Palestinian *amoraim*, with two exceptions. The first is Rab, but since Rab is also cited in the *Yerushalmi*, it is plausible that both of these statements originated while Rab was still in Palestine. The *Bavli* used Palestinian sources to express the same concerns about resistance to the rabbinic project, even though it was from a slightly different perspective. The second exception is Rava, from the fourth generation. Later Babylonian *amoraim* in general conformed to Palestinian patterns in this respect.

were very receptive to Palestinian traditions about tensions and hatred between the tannaim and the masses."[50]

Finally, in the *Yerushalmi* cited above, Rab anticipates the later Babylonian tradition of associating other negative images, words, or personalities with the term *ʾapiqoros* (see below). Rab begins by anachronistically identifying the biblical Koraḥ as an *ʾapiqoros*. The story that follows is later found in *Num. Rabbah* 18.3, *Tanḥ. Koraḥ* 2–3, and *Tanḥ. Buber Koraḥ* 4–6, but none of these versions mentions the word *ʾapiqoros* at all. These sources either drew on a common early version of the story that did not mention the term, or their authors or editors recognized its inclusion as artificial and deleted it. For Rab, however, the story reflects irreverence and insolence towards the rabbinic project, and is therefore drawn into the discussion of the *ʾapiqoros*.[51]

The Babylonian Talmud

Babylonian Sanhedrin 99a–b

The following is from the *Bavli*'s treatment of *m.Sanh.* 10:1, discussed above:

והאומר אין תורה מן השמים וכו׳: "And one who says the Torah is not from Heaven":

תנו רבנן: Our Rabbis taught:

כי דבר ה׳ בזה ומצותו הפר הכרת תכרת – זה האומר אין תורה מן השמים. *Because he has spurned the word of the Lord and His commandment has he broken* – This is the one who says Torah is not from Heaven.

דבר אחר: Another interpretation:

כי דבר ה׳ בזה – זה אפיקורוס. *Because he has spurned the word of the Lord and His commandment has he broken* – This is an Epicurean.

דבר אחר: Another interpretation:

50 Shaye J. D. Cohen, "The Place of the Rabbi in Jewish Society," in Lee I. Levine, ed., *The Galilee in Late Antiquity* (New York: Jewish Theological Seminary of America, 1992) 166. Cohen cites Jacob Neusner, *A History of the Jews in Babylonia* (5 vols.; Leiden: E. J. Brill, 1969–70) as the general source for the idea of popular resistance to Babylonian Rabbis.

51 This assumes that Rab was treating Koraḥ as a non-Rabbi, one of the "masses." It is equally plausible that Rab may have considered Koraḥ a Rabbi, since Rabbis, especially in Babylonia, tended to rabbinize biblical figures, including the wicked ones. This may actually strengthen his polemic, in that it shows that an *ʾapiqoros* may even threaten the rabbinic project from within. Consequently, the *ʾapiqorsim* must be fought against seriously and fiercely.

כי דבר ה' בזה
זה המגלה פנים בתורה.[52]
ואת מצותו הפר –
זה המפר ברית בשר.

Because he has spurned the word of the Lord,
This is one who shows contempt for the Torah.
And His commandment has he broken –
This is the one who breaks the covenant of flesh.

הכרת תכרת –
הכרת בעולם הזה
תכרת לעולם הבא.

He shall surely be cut off –
He shall be cut off [*hikaret*] in this world;
he shall be cut off [*tikaret*] in the world to come.

מכאן אמר רבי אליעזר המודעי,
המחלל את הקדשים והמבזה את
המועדות והמפר בריתו של
אברהם אבינו והמגלה פנים
בתורה שלא כהלכה והמלבין פני
חבירו ברבים
אף על פי שיש בידו תורה
ומעשים טובים אין לו חלק
לעולם הבא.

From this R. Eleazar Hamodai said,
'He who desecrates that which is consecrated
and spurns the appointed times, and breaks
the covenant of Abraham our father, and one
who provokes [others] through his teaching
against the law, and one who publicly
embarrasses his fellow,
even though he has [acquired] Torah and has
[performed] good deeds, he does not have a
share in the world to come.

תניא אידך:
כי דבר ה' בזה –
זה האומר אין תורה מן השמים
ואפילו אמר כל התורה כולה מן
השמים חוץ מפסוק זה שלא
אמרו הקדוש ברוך הוא אלא
משה מפי עצמו –
זהו כי דבר ה' בזה.

Another [tannaitic] teaching:
Because he has spurned the word of the Lord –
This is the one who says that Torah is not
from Heaven, and even if he said the entire
Torah is from Heaven except for this verse
which the Holy One blessed be He did not say,
rather Moses said it on his own authority –
this is a case of *Because he has spurned the word of the Lord.*

ואפילו אמר כל התורה כולה מן
השמים חוץ מדקדוק זה מקל
וחומר זה מגזרה שוה זו –
זה הוא כי דבר ה' בזה.

And even if he said the whole Torah is from
Heaven except for this detail, this *a fortiori*
argument, this *synkrisis* – [analogy from
verbal congruities[53]] – this is a case of *Because he has spurned the word of the Lord.*

תניא:
היה רבי מאיר אומר,
הלומד תורה ואינו מלמדה

A teaching:
Rabbi Meir would say,
A person who learns Torah but does not teach it –

52 So MS Munich; these three lines are missing in MSS Florence and Karlsruhe; in the latter manuscript, they are inserted in the margin.

53 Greek and English rendering of Lieberman, *Hellenism*, 61.

זה הוא דבר ה' בזה.
This is *He has spurned the word of the Lord.*

רבי נתן אומר,
כל מי שאינו משגיח על המשנה.
Rabbi Natan says,
Anyone who does not pay attention to the Mishnah.

רבי נהוראי אומר,
כל שאפשר לעסוק בתורה ואינו עוסק.
Rabbi Nehorai says,
Anyone who has the possibility of occupying himself with Torah but does not.

רבי ישמעאל אומר, זה העובד עבודת כוכבים.
Rabbi Ishmael says,
This one is the one who practices idolatry.

מאי משמעה? דתנא דבי רבי ישמעאל:
כי דבר ה' בזה –
זה המבזה דבור שנאמר לו למשה מסיני, אנכי ה' אלהיך לא יהיה לך אלהים אחרים וגו' (שמות כ:א-ב).
What is its meaning? As the House of Rabbi Ishmael taught:
Because he has spurned the word of the Lord –
This is one who spurns the first statement [of the Decalogue] that was said to Moses from Sinai, *I am the Lord your God. You shall not have for yourself other gods.* (Exod 20:1–2)

רבי יהושע בן קרחה אומר,
כל הלומד תורה ואינו חוזר עליה דומה לאדם שזורע ואינו קוצר.
Rabbi Joshua b. Korḥah says,
Anyone who learns Torah and does not review it is like a person who plants but does not harvest.

רבי יהושע אומר,
כל הלומד תורה ומשכחה דומה לאשה שיולדת וקוברת.
Rabbi Joshua says,
Anyone who learns Torah and forgets it is like a woman who gives birth and buries.

רבי עקיבא אומר, [צט:]
זמר בכל יום זמר בכל יום.
Rabbi Akiba says, [99b]
A [different] song each day, a [different] song each day.

אמר רב יצחק בר אבודימי,
מאי קרא? שנאמר נפש עמל עמלה לו כי אכף עליו פיהו (משלי טז:כו).
R. Isaac bar Avudimi said,
What is the verse? As it is said, *The hunger of a laborer labors for him, for his mouth urges him* (Proverbs 16:26).

הוא עמל במקום זה ותורתו עומלת לו במקום אחר.
He works in this place, and his Torah works for him in another place.

אמר רבי אלעזר,
כל אדם לעמל נברא שנאמר כי אדם לעמל יולד (איוב ה:ז).
R. Eleazar said,
Every person was created for labor, as it is written, *for humankind was born for labor* (Job 5:7).

איני יודע אם לעמל פה נברא אם לעמל מלאכה נברא. כשהוא
I do not know if he was created for labor of the mouth or if he was created for physical

אומר כי אכף עליו פיהו הוי אומר לעמל פה נברא. ועדיין איני יודע אם לעמל תורה אם לעמל שיחה. כשהוא אומר לא ימוש ספר התורה הזה מפיך (יהושע א:ח) הוי אומר לעמל תורה נברא.

labor. When Scripture says, *for his mouth urges him*, one should say he is born for labor of the mouth. But still I do not know if for labor of Torah or for labor of idle talk. When Scripture says, *This book of Torah shall not leave your mouth* (Joshua 1:8), one should say for labor of Torah he was created.

והיינו דאמר רבא, כולהו גופי דרופתקי נינהו טובי לדזכי דהוי דרופתקי דאורייתא.

And that is what Rava said, All bodies are receptacles; it is good for those who merit to be receptacles of Torah.[54]

ונואף אשה חסר לב (משלי ו:לב) –

And he who commits adultery with a woman is missing a heart (Prov 6:32) –

אמר ריש לקיש, זה הלומד תורה לפרקים שנאמר כי נעים כי תשמרם בבטנך יכונו יחדיו על שפתיך (משלי כח:יח).

Resh Lakish said: This is one who learns Torah occasionally, as it is said, *For it is pleasant if you guard them in your stomach, they will be established together on your lips* (Prov 22:18).

The *Bavli* subsequently goes on to present and then discuss (citing both Palestinian and Babylonian *amoraim*), a *baraita* about Menasseh ridiculing Scripture, and then presents a number of (mostly Palestinian) amoraic statements emphatically praising proper Torah study. The tone is unambiguously set by the above section; the Talmud is polemicizing against those who do not share the Rabbis' opinions and practices regarding Torah and Torah study. The word *ʾapiqoros* appears once at the start of this section, and does not reappear until after the section (not quoted) on ridiculing the Torah. However, the entire section contains important background for the ensuing discussion specifically about the *ʾapiqoros*.

The section cited contains five tannaitic traditions with a few brief amoraic and anonymous pieces. The first section is parallel to *Sifre Numbers*, discussed above, though with several changes. Most significant, in the *Sifre* the *second* part of the verse (*and His covenant he has broken*) is defined as an *ʾapiqoros*. Then the *midrash* devotes most of its attention to the *first* part of the verse (*Because he has spurned the word of the Lord*). In the *Bavli*, the citation of that same *midrash* associates the *ʾapiqoros* directly with the *first* part of the verse.

54 I have preferred Sokolof's translation of דרופתקא to Jastrow's, who renders the word "mailbags." Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (2 vols.; New York: Putnam, 1903. Repr.; New York: Judaica Press, 1985) 1:322, s.v. דרופ-תקי; Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Ramat Gan: Bar Ilan Univ. Press, 2002) 351, s.v. דרופתקא.

As noted earlier, the ideas combined with the definition of the *ʾapiqoros* in the Talmud are those associated in *Sifre Numbers* with that first part of the verse (which there has nothing to do with the *ʾapiqoros*). Here, a page before the Talmud's discussion of the *ʾapiqoros* himself, a shift has already been made; in the version of the tannaitic source that we find in *Sifre Numbers* which reached the *Bavli*, the *ʾapiqoros* was already associated with the phrase, *Because he has spurned the word of the Lord*.[55] The *ʾapiqoros* was thereby brought closer to the other midrashic associations with that part of the verse.

The second tannaitic source cited in the Talmud is also very similar to *Sifre Num.* 15:31, and it also has a parallel in *Sifre Zuta Num.* 15:31. Again, the third section is from *Sifre Numbers*, but the names attributed to each position are switched, and the phraseology is slightly different. Also, the text is interrupted by a brief Aramaic line (מאי משמעה דתנא דבי רבי ישמעאל).

The fourth tannaitic piece is taken from *t.ʾAhilot* 16.8 and *t.Parah* 4.7, with only slight variations. The tannaitic material is then interrupted by the statement of R. Isaac b. Avudimi. The final tannaitic citation is similar to *Gen. Rabbah* 13:7, but it is not clear which source predated which;[56] according to Higger, this material is not recorded in earlier compilations.[57] What follows in the Talmud are several more tannaitic sources that have parallels in *Sifre Num.* 15:31, followed by further amoraic discussion.

The purpose of quoting the long section above is twofold. First, it is important to notice the numerous tannaitic citations that precede the discussion of the *ʾapiqoros*, which I will address shortly. The framework that the editor of this section establishes is filled with tannaitic midrashic statements, almost all of which differ slightly from the way in which they appear in tannaitic sources (specifically *Sifre Numbers*, but also *Sifre Zuta*). One should examine the following pericope against the background of these tannaitic sources. The second purpose is to note the prevalence of quotations from *Sifre Num.* 15:31. The amoraic understanding of the term *ʾapiqoros* is built on a particular textual point in *Sifre Numbers* along with the context in which this point appears. Disdain for opposers of the rabbinic project and for Rabbis and would-be Rabbis who do not make proper use of their Torah knowledge is embedded in the background from which the amoraic understanding of the *ʾapiqoros* developed.

55 It is possible that the *Bavli* had a version of the *midrash* in which *Because he has spurned the word of the Lord* is the springboard for the anti-Epicurean polemic, and not *And His commandment he has broken*. Even such a text, however, would not indicate that the *ʾapiqoros* should be understood in light of the other exegeses of the same verse.

56 H. L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, ed. and trans., Markus Bockmuehl (Minneapolis: Fortress Press, 1996) 278–79.

57 Higger, *ʾOṣar*, 1:461.

Babylonian Sanhedrin 99b–100a: Part 1[58]

– אפיקורוס "Epicurean" –	
רבי ורבי חנינא אמרי תרוייהו, זה המבזה תלמיד חכם.	Rab and R. Ḥanina both said, This is the one who *spurns* a Torah scholar.
רבי יוחנן ורבי יהושע בן לוי אמרי, זה **המבזה** חבירו בפני תלמיד חכם.	*R. Yoḥanan and R. Joshua b. Levi* said: This is the one who **spurns** his fellow in the presence of a Torah scholar.
בשלמא למאן דאמר המבזה חבירו בפני תלמיד חכם **אפיקורוס** הוי מבזה תלמיד הכם עצמו מגלה פנים בתורה שלא כהלכה הוי. אלא למאן דאמר מבזה תלמיד חכם עצמו **אפיקורוס** הוי מגלה פנים בתורה כגון מאי? כגון מנשה בן חזקיה	It is logical for the one who says that the one who spurns his fellow in the presence of a Torah scholar is an **Epicurean**. The one who spurns a Torah scholar himself is one who shows contempt for the Torah.[59] But for the one who says that the one who spurns a Torah scholar himself is an **Epicurean**, one who provokes [others] through his teaching is what sort of person? The sort like Menasseh the son of Hezekiah.
ואיכא דמתני לה אסיפא.	And there are those who teach this relating to the latter part.
מגלה פנים בתורה –	One who shows contempt for the Torah –
רב ורבי חנינא אמרי, זה **המבזה** תלמיד חכם.	*Rab and R. Ḥanina* said, This is the one who **spurns** a Torah scholar.
רבי יוחנן ורבי יהושע בן לוי אמרי זה **המבזה** את חבירו בפני תלמיד חכם.	R. Yoḥanan and R. Joshua b. Levi said, This is the one who **spurns** his fellow in front of a Torah scholar.

It is important to clarify the specific text on which this pericope is commenting. At first it appears that the citation *ʾapiqoros* at the head of the pericope recalls the Mishnah (10:1), which listed the Epicurean as one of those who do not have

58 I will present this large pericope in small sections so as to highlight its progression and focus on each part individually.

59 Apparently, just as the *amoraim* did not understand the meaning of the word *ʾapiqoros* according to its original meaning, so too the anonymous author of these lines did not understand the expression *megaleh panim batorah* (*shelo kahalakhah*) to mean "one who shows contempt for the Torah." The additional words *shelo kahalakhah* allowed the entire phrase to be construed as "one who reveals/exposes facets of the Torah (i.e., expounds the Torah) not in accordance with the *halakhah*/in an unlawful way." I have kept the translation consistent to follow the consistency of the Hebrew phrase, just as I have continued to translate *ʾapiqoros* as "Epicurean," even though the authors and editors of the *Bavli* would not have understood it that way.

a share in the world to come. However, the anonymous reference to the "latter part" that immediately discusses "the one who shows contempt for the Torah," which does not appear in the Mishnah, indicates that this reference must be a comment on the extra-mishnaic tannaitic source above, harking back to *Sifre Numbers*. That source mentions both "the Epicurean" and "the one who shows contempt for the Torah."[60] The *ʾapiqoros*, consequently, is *not* being defined in the context of the Mishnah, but in the context of a rich *midrash* on whose theme the *amoraim* will draw for their definitions.

Turning now to the definitions themselves, it is striking that the word "spurn" is used in the definitions provided by all four *amoraim* mentioned, marking the connection to the exegesis of the verse, *Because he has spurned the word of the Lord*. It will be no surprise that the theme of the definitions and descriptions of the *ʾapiqoros* follows and emphasizes that of *Sifre Numbers*: an *ʾapiqoros* is one who has a negative attitude towards Torah scholars and scholarship.

The next thing to observe is the close affiliation of the *ʾapiqoros* with "the one who shows contempt for the Torah," a parallel stemming from *Sifre Numbers*, as explained above. Here, the closeness of the two terms is especially highlighted with the anonymous insertions in the Talmud. The Talmud presents two definitions that are very similar to each other, one referring to the Epicurean, and one referring to "one who shows contempt for the Torah," and then states that it is not clear which definition refers to which offender.

Babylonian Sanhedrin 99b–100a, Part 2

בשלמא למאן דאמר המבזה	It is logical for one who says that the one
תלמיד חכם עצמו מגלה	who spurns a Torah scholar himself is one
פנים בתורה	who shows contempt for the Torah;
הוי, מבזה חבירו בפני	one who spurns his fellow in the presence of a
תלמיד חכם **אפיקורוס** הוי.	Torah scholar is an **Epicurean**.
אלא למאן דאמר מבזה	But for one who says that one who spurns his
חבירו בפני תלמיד חכם	fellow in the presence of a Torah scholar is one
מגלה פנים בתורה הוי,	who shows contempt for the Torah, an
אפיקורוס כגון מאן?	**Epicurean** is what sort of[61] person?

60 MSS Munich and Paris do not contain the line pertaining to "the one who shows contempt for the Torah," and in MS Karlsruhe it appears only in the margin. However, they all refer to "the one who shows contempt for the Torah" as the "latter part." Two possibilities are that the quotation in those manuscripts is simply an abbreviated form, and this extra line is only quoted in this pericope when it becomes necessary; or it may be a reference to the part of that same quotation which mentions "the one who shows contempt for the Torah" as one who does not have a share in the world to come.

61 The word כגון as a question must be translated "what sort of," while as a statement, the same word means, "such as."

אמר רב יוסף כגון הני דאמרי מאי אהנו לן רבנן לדידהו קרו לדידהו תנו.	R. Joseph said, **Such as** those who say, 'What benefit do the Rabbis bring us? For themselves they read, for themselves they teach!'
אמר ליה אביי, האי מגלה פנים בתורה נמי הוא, דכתיב אם לא בריתי יומם ולילה חקות שמים וארץ לא שמתי (ירמיה לג:כה).	Abbaye said to him, This too is contempt for the Torah, as it is written, *If I have not made a covenant with day and night and have not set the laws of heaven and earth* (Jeremiah 33:25).
אמר רב נחמן בר יצחק, מהכא נמי שמע מינה שנאמר ונשאתי לכל המקום בעבורם (בראשית יח:כו).	R. Naḥman bar Isaac said, From here also you can learn this, as it is said, *And I will forgive the entire place on their account* (Genesis 18:26).
אלא כגון דיתיב קמיה רביה ונפלה ליה שמעתא בדוכתא אחריתי ואמר הכי אמרינן התם ולא אמר הכי אמר מר.	Rather, **such as** one who sat before his teacher, and a teaching came to him from another place, and he said, 'This is what we say there,' but he did not say, 'This is what the master said.'
רבא אמר, כגון הני דבי בנימין אסיא דאמרי, מאי אהני לן רבנן מעולם לא שרו לן עורבא ולא אסרו לן יונה.	Rava said, **Such as** those of the house of Benjamin the doctor who say, 'What do the Rabbis benefit us? They have never permitted us the raven nor forbidden us the dove.'
רבא כי הוו מייתי טריפתא דבי בנימין קמיה כי הוה חזי בה טעמא להיתירא אמר להו תחזו דקא שרינא לכו עורבא כי הוה חזי לה טעמא לאיסורא אמר להו תחזו דקא אסרנא לכו יונה.	When they brought a defective animal of the house of Benjamin before Rava, when he could find a reason to permit it, he said to them, 'Look, I am permitting you the raven.' When he could find a reason to forbid it, he said, 'Look, I am forbidding you the dove.'
רב פפא אמר, כגון דאמר הני רבנן.	R. Papa said, **Such as** one who says, 'Those Rabbis!'
רב פפא אישתלי ואמר כגון הני רבנן ואיתיב בתעניתא.	R. Papa forgot and said, 'Such as those Rabbis' and sat fasting.[62]

This section contains a series of *amoraim* offering cases of the behavior of the *ʾapiqoros*. One thing to notice is that the last comment in the section is

62 Although the word *ʾapiqoros* is nowhere found here in the mouth of an *amora* in an attributed statement, these definitions do not have parallels elsewhere that would lead one to conjecture a different referent for them. It is therefore reasonable to trust the editor of the pericope and the anonymous voices within it that they are discussing the *ʾapiqoros*.

very close to אילין רבנין, one of the definitions in the *Yerushalmi*. Thematically, these definitions are all related. However, we also notice that the root "spurn" no longer appears.

The *amoraim* in this section are slightly later, and their examples of the *ʾapiqoros* are less connected specifically with the exact verse expounded in *Sifre Numbers*. They are no longer tied directly to the *midrash* in *Sifre Numbers* nor to other tannaitic literature, even though they continue to draw from and build on the themes contained therein. By this point, they are building upon a tradition that generally connects the *ʾapiqoros* with one who is disrespectful of Torah scholarship or scholars. Richard Kalmin characterizes R. Joseph's original statement in terms of the general Babylonian rabbinic tendency toward insularity and the exclusion of non-Rabbis. R. Joseph articulates (and condemns) a criticism that realistically may have been prevalent among non-Rabbis in reaction to this rabbinic insularity.[63] The direct and specific connection with *Sifre Numbers* may have been brief in terms of textual history, but its force remains meaningful throughout the amoraic period through its translation into contemporary rabbinic realia.

The speakers in this part of the pericope are R. Joseph (third generation), Abbaye (fourth generation), R. Naḥman bar Isaac (fourth generation), Rava (fourth generation), and R. Papa (fifth generation). The section is well-organized chronologically and held together by the repeated use of definitions introduced with "such as." One can sense that this section appears to be a self-contained unit, a completed pericope. It is a smooth outgrowth from what precedes it in the larger pericope; the question, appearing there twice, uses the same word כגון, translated above as "What sort of?" (see n. 57), but which is the same as the word for "such as."

To turn again to the actual content of the comments made in this section, one must note that Abaye rejects one definition since it refers to the one who shows contempt for the Torah. This again points to the obscurity of the definition of the *ʾapiqoros* and its closeness to the one who shows contempt for the Torah.

The vast, though subtle, differences between the examples of "Epicureans" that the Talmud presents here must also be noted. Both Rava's and R. Papa's examples are of people who express flagrant disrespect for the Rabbis, treating them, one might say, as useless and ridiculous.[64] On the other hand, the alternative to R. Joseph's initial position, which may either be a statement of Abaye,

63 Kalmin, *Sage*, 35.

64 The brief story about R. Papa in which he believes that merely saying the words "Those Rabbis!" is a grave offense does not pose a serious challenge to this trend. R. Papa never labels himself an *ʾapiqoros* and the force of his fasting is unclear. R. Papa's extreme stringency for himself in watching his words need not be taken as a normative definition of what constitutes an *ʾapiqoros*.

R. Naḥman bar Isaac, or the anonymous editor, is an example of a person who is studying Torah with Rabbis; perhaps he is even a Rabbi himself. The person in this example merely neglects to cite a teaching in the name of the master who said it.[65] This person is certainly a far cry from one who regards all of rabbinic learning as useless (a character who figured prominently in the other definitions). Similarly, R. Yoḥanan, at *b.Sanh.* 38b[66] says that the Mishnah refers also to a non-Jewish Epicurean. The alternative to R. Joseph's position implies a Jew very much involved in the rabbinic project, whereas for R. Yoḥanan, Rava, and R. Papa, the term *ʾapiqoros* is much broader and may even include a non-Jew. The uniqueness of the alternative to R. Joseph's definition (which may be read as an anonymous statement, since it is not preceded by a direct attestation) will be addressed below, and is reflective of a later stage in the understanding of the *ʾapiqoros*.

A final point about this section is the noteworthy lack of specificity with which the *amoraim* define the *ʾapiqoros*. Though these examples may seem specific because they refer to particular statements that an *ʾapiqoros* might make, they are only that: examples, that are offered in place of specific, straightforward definitions. Further, the term "such as" implies that these are not intended to be mutually exclusive examples; they may be variations on a theme or examples of particular behaviors in which one such person might engage. This lack of specificity is understandable given the challenge facing *amoraim* in defining the *ʾapiqoros*. When one is groping for an understanding of a term that ultimately is obscure, it is easier to make broad generalizations than to claim to know a precise definition.

Babylonian Sanhedrin 99b–100a, Part 3

לוי בר שמואל ורב הונא בר חייא הוו קא מתקני מטפחות ספרי דבי רב יהודה. כי מטו מגילת אסתר אמרי, הא [מגילת אסתר] לא בעי מטפחת.	Levi b. Samuel and R. Huna b. Ḥiyya were fitting wraps for the books in the study house of R. Judah. When they came to the Scroll of Esther, they said, This, the Scroll of Esther, does not require a wrap.
אמר להו, כי האי גוונא נמי מיחזי כי **אפקירותא**.	He said to them, Such a case also looks like **irreverence**.[67]

65 For the rabbinic value of citing a tradition in the name of the master who said it, see *m.ʾAbot* 6:6.

66 תנן התם רבי אלעזר אומר הוי שקוד ללמוד תורה ודע מה שתשיב לאפיקורוס אמר רבי יוחנן לא שנו אלא אפיקורוס עובדי כוכבים אבל אפיקורוס ישראל כל שכן דפקר טפי. [The Mishnah] there [*ʾAbot* 2:14] teaches: "R. Eleazar says: Be diligent in your study of Torah, and know what to reply to an Epicurean." R. Yoḥanan said, This was taught only regarding a gentile Epicurean, but regarding an Israelite Epicurean, all the more so, since he is more irreverent.

67 Note the Hebrew word for irreverence (*ʾafqiruta*ʾ) and its phonetic similarity to *ʾapiqoros*.

רב נחמן אמר, זה הקורא רבו בשמו, דאמר רבי יוחנן, מפני מה נענש גיחזי? מפני שקרא לרבו בשמו, שנאמר ויאמר גחזי אדני המלך זאת האשה וזה בנה אשר החיה אלישע (מ״ב ח:ה).

R. Naḥman said, This is the one who calls his teacher by his name, as R. Yoḥanan said, Because of what was Geḥazi punished? Because he called his teacher by his name, as it is said, *And Geḥazi said, 'My lord the king, this is the woman and this is her son that Elisha revived'* (2 Kings 8:5).

יתיב רבי ירמיה קמיה דרבי זירא ויתיב וקאמר, עתיד הקדוש ברוך הוא להוציא נחל מבית קדשי הקדשים ועליו כל מיני מגדים שנאמר ועל הנחל יעלה על שפתו מזה ומזה כל עץ מאכל לא יבול עלהו ולא יתם פריו לחדשיו יבכר כי מימיו מן המקדש [המה] יוצאים והיה פריו למאכל ועלהו לתרופה (ירמיה מז:יב). אמר ליה ההוא סבא, יישר. וכן אמר רבי יוחנן (יישר).

R. Jeremiah sat before R. Zeira, and said, In the future the Holy One blessed be He will bring a wadi out of the Most Holy House, and on it [will be] all sorts of fine fruits, as it is said, *And on the wadi will rise on its banks, from this one and that one, all trees for food; its leaves will not wither, and its fruits will not fail; each month will bring new fruit; all of its water from the Holy [of Holies] goes forth, and its fruit will be for eating and its leaves for healing* (Jeremiah 47:12). An elder said to him "May you be strong,"[68] and likewise did R. Yoḥanan say.

אמר ליה רבי ירמיה לרבי זירא, כי האי גונא מיחזי **אפקרותא**.

R. Jeremiah said to R. Zeira, Such a case also looks like **irreverence**.[69]

This section is the final main part of the pericope about the *ʾapiqoros*. However, the first thing we notice is that the word *ʾapiqoros* no longer appears. While in the previous section the word only appears in the first several lines, in that section the connection to the term is established via the repeated use of the phrase כגון, which first appears in direct connection with the *ʾapiqoros*.[70]

Since the previous section is indeed discussing the *ʾapiqoros*, and that section seemed to end as a pericope with the statement of R. Papa and the anonymous line following it, one must ask what is the subject of this final section.

68 A word of praise or approval.

69 Several lines of discussion of this case follow, and this leads to a longer discussion about the exegesis of the verse from 2 Kings and others like it.

70 One may easily refute the assertion of such a connection with the possibility that the question (which uses the word כגון) that provides the link between the part of the pericope the mentions the אפיקורוס specifically and the part that offers definitions for it, is a later insertion into the text specifically in order to create the connection. This is indeed a possibility. However, a more convincing difference between the two sections of the larger pericope and their relationship to the actual word אפיקורוס is asserted here as well.

Its distinction from the previous section is apparent in the discontinuation of the "such as" form of definition[71] and the introduction of *amoraim* earlier than R. Papa, namely Levi b. Samuel and R. Huna bar Ḥiyya. Along with these shifts, one notices that rather than the unmentioned subject *ʾapiqoros*, a different word is used twice as the subject of these explanations: *ʾafqiruta*ʾ.

The word *ʾafqiruta*ʾ is not actually related to the word *ʾapiqoros*. Kohut incorrectly assumes that the verb *pqr*,[72] of which *ʾafqiruta*ʾ is a derivative, developed from the Greek *ʾapiqoros*, and he even explains the latter term in terms of other instances of *pqr* in rabbinic literature.[73] J. Kaempf,[74] however, proved in the nineteenth century that while *ʾapiqoros* is the Hebrew transcription of the Greek Epicurus, the root *pqr* is Semitic. He proves this in part by its relationship to its cognate Semitic root *bqr*. More recently, Shamma Friedman has suggested that, while *pqr*/*bqr* comes from Akkadian, the Babylonian Aramaic word *ʾafqiruta*ʾ is an independent word influenced by Syriac and meaning irreverence.[75] One can glean a more specific definition of *ʾafqiruta*ʾ from the Talmud itself. In the above cited section, the two cases of *ʾafqiruta*ʾ are neglecting to count the Scroll of Esther among the books that require a wrapping,[76] and encouraging one's teacher, which is later explained to be a sign of disrespect.[77]

These two cases are reminiscent of the anonymous position offered above as an alternative to R. Joseph's definition of the *ʾapiqoros*: "One who sat before his teacher, and a teaching came to him from another place, and he said, 'This is what we say there,' but he does not say, 'This is what the master said.'" Both in that anonymous position and in these cases, the offender is one who otherwise engages in the rabbinic enterprise, and perhaps is even a Rabbi himself. It seems that the alternative to R. Joseph's initial definition above was actually a

71 The anomalous form in this section is that of R. Naḥman's definition, which harks back to the original definitions of R. Yoḥanan, R. Yehoshua b. Levi, Rab, and R. Ḥanina, using the form "This is. . . ." It seems not to belong formally in this section. (This is supported by the fact that R. Naḥman's definition is in Hebrew, while the others are in Aramaic.) A possible explanation is that it was inserted here rather than above *in order* to make a connection with the earlier section.

72 Krauss also believed *ʾafqiruta*ʾ to be an Aramaic word based on *ʾapiqoros*. Emanuel Löw, in his notes on Krauss, went a step further and derived the Aramiac root *pqr* from *ʾapiqoros*, and *ʾafqiruta*ʾ from *pqr*. *Lehnwörter*, 2:113, s.v. אפקירותא.

73 Kohut, *Aruch Completum*, 1:233.

74 Kaempf, "Horae Semiticae," 143–48.

75 Shamma Friedman, "The Scholars' Dictionary of Tannaitic Hebrew, A Critique of the Entry: *Hefker/Hevker*," *Sidra* 12 (1996) 113–27 (Heb.). My thanks to Joshua Kulp for directing me to this article.

76 This implies a lack of respect for the book, and perhaps an assertion that it was not written under divine inspiration; *b.Meg.* 7a.

77 R. Zeira later rejects R. Jeremiah's claim. Also, according to Rashi's version, R. Jeremiah is only asking a question, not making an assertion. Nonetheless, regardless of the fact that this particular form of disrespect is not considered severe enough (or real enough) to be considered *ʾafqiruta*ʾ, it is still presented as the *type* of thing that would be.

later anonymous statement, and was likely authored by an *amora* or an editor who had in mind the discussion of *ʾafqiruta*ʾ that follows.[78]

It would not be difficult to read that previous section as self-contained even once the line containing the alternative to R. Joseph's definion is removed. Taking that definition out and placing its message in the context of the *ʾafqiruta*ʾ discussion paints a clearer picture of the development from the amoraic layer to the redactional layer of the Talmud. The amoraic layer reflects a broad understanding of the *ʾapiqoros* as one who falls completely outside the fold of the rabbinic project. This layer is followed by the redactional layer's more specific treatment of the *ʾapiqoros* as one who is disrespectful in a particular situation, while in general partaking in the rabbinic project.

There are three instances of the word *ʾafqiruta*ʾ in the *Bavli* (that are consistent in the manuscripts). Interestingly, Moshe Kasowski takes for granted the conflation of the words *ʾapiqoros* and *ʾafqiruta*ʾ, as the latter is listed as a subcategory of the former in his talmudic thesaurus.[79] The word *ʾafqiruta*ʾ is used in these sources to connote irreverence towards rabbinic authority. A discussion at *Moed Qatan* 15a includes the statement that for the offense of *ʾafqiruta*ʾ, in contrast to monetary offenses, a rabbinic court may put a person under a ban without warning. Abbaye (fourth generation) comments at *Ketubot* 60b that the reason that one should not make a legal ruling in the place of his teacher is actually *not* because it could be construed as *ʾafqiruta*ʾ, but because of practical concerns.

This problem of making a legal ruling in the presence of one's teacher is also discussed in a story at *Eruvin* 63a, where R. Ashi says to Ravina that in some cases this should in fact *not* be construed as *ʾafqiruta*ʾ. In this story, Ravina's language sounds very much like the language in *Sanhedrin*. He asks R. Ashi, כי האי גוונא מי מתחזא כאפקרותא? – "Does such a case look like irreverence?" Finally, another form of the verb *pqr* appears at *Nedarim* 23a, where an exception is made in a case where there are *ʾapiqori*, irreverent people, who cause trouble for the Rabbis.

Were the final part of the above cited pericope from *Sanhedrin* to be examined on its own, it appears that one could read it as an independent pericope (possibly including that which follows it), attached to the previous one by the hand of an editor. The stories contained in this final part do not rely on any previous information, and their form is not related to anything that precedes

78 My larger thesis, of course, does not depend on this speculation. Even if R. Joseph's alternative position is in fact amoraic and merely anomalous, there is clearly a sharp difference between the amoraic description of the *ʾapiqoros* and the stammaitic use of *ʾafqiruta*ʾ.

79 Moshe Kasowski, ed., *Thesaurus Talmudis: Concordiantie Veerborum* (41 vols.; Jerusalem: Ministry of Education and Culture, Government of Israel and the Jewish Theological Seminary of America, 1960) 6:2785, s.v. אפיקורוס. See Appendix I for full citation of these sources.

it. In fact, the form is much closer, as noted, to the story at *Eruvin* 63a than to the discussion of the *ʾapiqoros* in *Sanhedrin*.

It is not difficult to see why the conflation of these two terms took place. First of all, the dearth of material specifically about the *ʾapiqoros* makes the subject susceptible in general to misinterpretation. In terms of *ʾafqiruta*ʾ specifically, Stanley Wagner writes, "Owing to a phonetic similarity between פקר and אפיקורוס, and an historic similarity between the behavior of the אפיקורוס and general antipathy towards the Sages (פקר), the rabbis used the two terms interchangeably."[80]

The one point to specify in this quotation from Wagner's summary is that it is the talmudic editors, not merely "the Sages," who use the terms interchangeably. There is no hint in any of the sources presented that the *amoraim* discussing each term had in mind the discussions of the other term. It is here, in this pericope in *Sanhedrin*, that a pericope about the *ʾapiqoros* and a pericope about *ʾafqiruta*ʾ are conflated into one. The only other place that such a conflation of these two words takes place is in a brief line in *b.Sanh.* 38b,[81] where a stammaitic gloss introduces this philological association into an early amoraic statement of R. Yoḥanan that otherwise does not at all hint at such an association. This marks the final stage of the talmudic evolution of the word *ʾapiqoros* and its definition.

Conclusion

This essay has delineated the evolution of the word *ʾapiqoros* from its usage in tannaitic literature through the redactional layer of the *Bavli*. Originally, the term was used by *tannaim* as the Hebrew transliteration of the Greek word "Epicurean," referring to the ancient Hellenistic philosophy that rejected the concepts of divine providence and of reward and punishment. The Rabbis of the Mishnah and tannaitic *midrashim* use the term *ʾapiqoros* comfortably, without offering a definition, because of their first-hand experience of Epicureans in Palestine. However, by the third century, Epicureanism was significantly waning, and the Rabbis no longer had contact with or knowledge of Epicureans. As a result, the definitions that the Rabbis constructed for the word *ʾapiqoros* had little connection to Epicureanism.

However, these *amoraim* had inherited traditions about the *ʾapiqoros* as an unambiguously negative figure, and they needed to define this otherwise obscure term. Irrespective of any philological assumptions the *amoraim* might

80 Stanley Wagner, "Religious Nonconformity in Ancient Jewish Life" (D.H.L. diss., Yeshiva Univ., 1964) 143.

81 See n. 66.

have had about the word *ʾapiqoros*, their project was dominated by conceptual and historical considerations. It is possible that they had retained a tradition from tannaitic times regarding the Epicureans' reputation of lacking respect for teachers. Moreover, *Sifre Num.* 112 and other tannaitic material inadvertently offered them the opportunity of placing the *ʾapiqoros* in the context of one who is disrespectful of Torah, Torah scholarship, or Torah scholars. This context became the basis for the amoraic definition of the *ʾapiqoros*. Though this definition may have coincided with a certain aspect of Epicureanism, its connection to Epicureans or Epicurean philosophy was completely severed by the amoraic period.

The final step in the evolution of the term *ʾapiqoros* is its association with the Aramaic root *pqr*, and specifically with the form *ʾafqiruta*ʾ. The editor of the main pericope in the *Bavli* that deals with the *ʾapiqoros* attached onto the end of it another pericope about *ʾafqiruta*ʾ. In attaching these two pericopes, the editor created the appearance of one large pericope about behavior that is irreverent toward Torah scholars or scholarship, calling the irreverent offender an *ʾapiqoros*.

The linguistic development of the term *ʾapiqoros*, is not merely interesting in and of itself. This essay has shown that the *Bavli*'s identification of sources as amoraic and stammaitic (or, if one wishes to be more cautious, editorial), at least in one specific instance, is confirmed by differences between the use of the term under consideration. There is a valid distinction between editorial thinking and amoraic thinking within the *Bavli*, and one can indeed therefore trace intellectual history within rabbinic sources. This historical and literary implication makes possible, in addition to resulting from, the diachronic study of talmudic terms and concepts such as the *ʾapiqoros*.

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Appendix I
Sources From the Babylonian Talmud About *ʾafqiruta*ʾ

Babylonian Moʿed Qaṭan 16a

דכתיב הן למות הן לשרושי הן לענש נכסין ולאסורין (עזרא ז:כו). מאי לשרושי?	As it is written, *Whether it be to death, or to uprooting, or to confiscation of goods or to imprisonment* (Ezra 7:26). What is meant by *uprooting*?
אמר אדא מרי אמר נחמיה בר ברוך אמר רב חייא בר אבין אמר רב יהודה הרדפה.	Ada Mari said, Neḥemiah bar Barukh said, R. Ḥiyya bar Abin said, R. Yehudah said: *hardafah*.
מאי הרדפה אמר רב יהודה בריה דרב שמואל בר שילת משמיה דרב מנדין לאלתר ושונין לאחר שלשים ומחרימין לאחר ששים.	What is meant by *hardafah*? R. Judah son of R. Samuel bar Shilat said in the name of Rab: They expel him immediately, and they repeat it after thirty days, and they excommunicate him after sixty days.
אמר ליה רב הונא בר חיננא הכי אמר רב חסדא מתרין ביה שני וחמישי ושני.	R. Huna bar Ḥinena said to him: R. Ḥisda said thus: They warn him Monday, Thursday, and Monday.
הני מילי לממונא אבל לאפקירותא לאלתר.	This applies for monetary cases, but for *ʾafqiruta*ʾ, it is immediate.
ההוא טבחא דאיתפקר ברב טובי בר מתנה אימנו עליה אביי ורבא ושמתוהו. לסוף אזל פייסיה לבעל דיניה.	A certain butcher was **irreverent** (*ʾitpaqar*) towards R. Tobai bar Mattenah. Abayye and Rava were appointed, and they banned him. In the end, he went and appeased his litigant.
אמר אביי היכי ליעביד לישרי לא חל שמתא עליה תלתין יומין לא לישרי ליה קא בעו רבנן למיעל.	Abayya said: What should we do? [If we] release him, the ban will not have lasted 30 days; [If we] do not release him, the Rabbis want to enter [his butcher-shop].
אמר ליה לרב אידי בר אבין מידי שמיע לך בהא?	He said to R. Idi bar Abin: Have you heard anything regarding this case?
אמר ליה הכי אמר רב תחליפא בר אבימי אמר שמואל טוט אסר וטוט שרי.	He said to him: Thus said R. Taḥlifa bar Abimi, Samuel said: A toot binds and a toot releases.
אמר ליה הני מילי לממונא	He said to him: This applies to monetary

אבל לאפקירותא עד דחיילא שמתא עליה תלתין יומין. cases, but for *ʾafqiruta*ʾ, until the ban lasts 30 days.

Babylonian ʾErubin 63a

אמר רבא ולאפרושי מאיסורא אפילו בפניו שפיר דמי. Raba said: In order to prevent a transgression, it is appropriate [for a student to render a legal decision] even in his [masters] presence.

רבינא הוה יתיב קמיה דרב אשי חזייה להוא גברא דקא אסר ליה לחמריה בצינתא בשבתא. Rabina was sitting before R. Ashi. He saw a certain man tying his donkey to a palm-tree on the Sabbath.

רמא ביה קלא ולא אשגח ביה אמר ליה ליהוי האי גברא בשמתא! He called out to him but he did not pay attention to him. He said to him, This man shall be put under a ban!

אמר ליה כי האי גוונא מי מתחזא כאפקרותא? He [Rabina] said to him [Ashi]: Does such behavior [as mine] appear to be *ʾafqiruta*ʾ?

אמר ליה אין חכמה ואין תבונה ואין עצה לנגד ה' (משלי לא:ל). He [Ashi] said to him [Rabina]: *There is no wisdom and no understanding and no advice against the Lord* (Prov 31:30).

כל מקום שיש בו חילול השם אין חולקין כבוד לרב. Wherever there is a desecration of God's name, no respect is to be shown to one's teacher.

Babylonian Ketubbot 60b

אמר אביי האי מילתא דאמור רבנן אפילו ביעתא בכותחא לא לישרי איניש במקום רביה לא משום דמיחזי כאפקירותא אלא משום דלא מסתייעא מילתא למימרא. Abayye said: That which the Rabbis said, 'Even [a question about the permissibilty of eating] an egg with *kutaḥ* a person should not solve in the place of his teacher,' is not because it appears to be *ʾafqiruta*ʾ, but because he will not succeed in dealing with the matter.

Babylonian Nedarim 23a

רבי ישמעאל בר רבי יוסי הוה ליה נדרא למישרא. R. Ishmael bar R. Yose needed to be released from a vow.

אתא לקמייהו דרבנן אמרו ליה נדרת אדעתא דהכי He went before the Rabbis. They said to him, Did you vow knowing this?

אמר להו אין. He said to them, Yes.

נדרתא אדעתא דהכי? Did you vow knowing this?

אמר להו אין כמה זימנין. He said to them 'yes' a number of times.

כיון דחזא ההוא קצרא דמצטערי רבנן מחייה באוכלא דקצרי.

When a certain fuller saw that he was troubling the Rabbis, he struck him with his basket.

אמר אדעתא דמחי לי קצרא לא נדרי ושריה לנפשיה

He said, I did not vow knowing that the fuller would strike me, and he released himself.

אמר ליה רב אחא מדיפתי לרבינא האי נולד הוא דלא מסיק אדעתיה דמחי ליה קצרא ותנינא אין פותחין לו בנולד.

R. Aḥa of Difti said to Rabina, That was unexpected, since it did not occur to him that a fuller would strike him, and we learned: We do not release him on account of something unexpected.

אמר ליה האי לאו נולד הוא דשכיחי **אפיקורי** דמצערי רבנן.

He said to him: That was not unexpected, since there are commonly **irreverent ones** (*ʾafiqurei*) who trouble the Rabbis.

Appendix II
False Positives

There are a number of instances in which the word *ʾapiqoros* appears in rabbinic literature in the printed editions commonly used but is not found in manuscripts, and in fact is either a mistake or the result of censorship. In each text, the manuscripts have some variation of the word *min* instead of *ʾapiqoros*. This appendix contains citations of these texts and references to the critical editions of the works cited.[82]

Tosfeta Megillah 3:37 (Lieberman = Zuckermandel 4[3]:37)

מיכן אמ׳ ר׳ שמעון בן לעזר אין אדם רשיי להשיב על הקלקלה שמתשובה שהשיבו אהרן למשה פרשו המינין.

From this R. Shimon ben Leazar said: A person is not permitted to respond regarding failure, since on account of the response that Aaron gave Moses, the *minin* spread.

In Kasowski's concordance of the Tosefta, this source is listed s.v. אפיקורוס, and he cites the word האפיקורסון in place of המינין. However, both Zuckermandel's and Lieberman's Tosefta read המינין and Lieberman notes that in all the manuscripts and old printings this is the correct reading.[83]

82 One should also note that the similar term אפיקרסי or אפיקרסות, meaning undershirt(s), should not be confused with אפיקורוס. Context will clearly indicate which word is intended, and Kasowski lists it separately in his thesaurus, as do all lexicons.

83 Saul Lieberman, *Tosefta Ki-Fshutah: A Comprehensive Commentary on the Tosefta* (3 vols.; New York: The Jewish Theological Seminary of America, 1962) 3:1218.

Babylonian Hagigah 5b

רבי יהושע בן חנניה הוה קאי בי קיסר אחוי ליה ההוא **אפיקורסא** עמא דאהדרינהו מריה לאפיה מיניה אחוי ליה ידו נטויה עלינו אמר ליה קיסר לרבי יהושע מאי אחוי לך עמא דאהדרינהו מריה לאפיה מיניה ואנא מחוינא ליה ידו נטויה עלינו אמרו ליה להההוא מינא מאי אחויית ליה עמא דאהדרינהו מריה מיניה ומאי אחוי לך לא ידענא אמרו גברא דלא ידע מאי מחוו ליה במחוג יחוי קמי מלכא אפקוהו וקטלוהו כי קא ניחא נפשיה דרבי יהושע בן חנניה אמרו ליה רבנן מאי תיהוי עלן **מאפיקורסין** אמר להם אבדה עצה מבנים נסרחה חכמתם (ירמיה מט:ז) כיון שאבדה עצה מבנים נסרחה חכמתן של אומות העולם.

R. Joshua b. Ḥananiah was standing in the court of Caesar. A certain irreverent one (*ʾapiqorsaʾ*) gestured to him, A nation whose master has turned his face from them. He gestured to him, His hand is stretched out over us. Caesar said to R. Joshua, What did he gesture to you? A nation whose master has turned his face from them, and I gestured to him, His hand is stretched out over us. They said to the heretic, What did you gesture to him? A nation whose master has turned his face from them. And what did he gesture to you? I do not know. They said, A man who does not know what they gestured to him converses in gestures before the king?! They took him out and executed him. When R. Joshua b. Ḥananiah was about to die, the Rabbis said to him, What will become of us at the hands of the *ʾapiqorsin*? He said to them, *Counsel is perished from the children, their wisdom is vanished* (Jer. 49:7). Since counsel is perished from the children [of Israel], the wisdom of the nations of the world is vanished.

Rabinowitz notes that in all old printings and several specific manuscripts the words מינא and מינין respectively replace the words אפיקורסא and מאפיקורסין.[84]

Babylonian Baba Batra 91a

ואמר רב חנן בר רבא אמר רב אמיה דאברהם אמתלאי בת כרנבו אמיה דהמן אמתלאי בת עורבתי וסימניך טמא טמא טהור טהור אמיה דדוד נצבת בת עדאל שמה אמיה דשמשון צללפונית ואחתיה נשיין למאי נפקא מינה לתשובת **האפיקורסין**.

R. Ḥanan bar Raba also said, Rab said: Abraham's mother was Amatlai daughter of Karnebo; Haman's mother was Amatlai daughter of Orabti. Your mnemonic is: Impure impure, pure pure. David's mother was named Nitzbat daughter of Adaʾel; Samson's mother was Tzlelponit, and her sister, Nashyan. What does it matter? To answer the ***ʾapiqorsin***.

In the Venice and Vilna editions of the *Bavli*, the word מינין appears in the place of האפיקורסין. However, Rabinowitz, who uses the *Frankfurt a.M.* 1721 f.

84 Raphael Rabinowitz, *Sefer Dikdukei Soferim* (16 vols.; Munich: H. Roesl, 1867–97) 7:13.

edition of the Talmud as his base, and Kasowski both list it as cited here, and Rabinowitz's note is that in all manuscripts and versions, the word האפיקורוסין is a censor's alteration.[85]

Babylonian Qiddušin 66a

ויאמר אלעזר בן פועירה לינאי המלך ינאי המלך הדיוט שבישראל כך הוא דינו ואתה מלך וכהן גדול כך הוא דינך ומה אעשה אם אתה שומע לעצתי רומסם ותורה מה תהא עליה הרי כרוכה ומונחת בקרן זוית כל הרוצה ללמוד יבוא וילמוד אמר רב נחמן בר יצחק מיד נזרקה בו **אפיקורסות** דהוה ליה למימר תינח תורה שבכתב תורה שבעל פה . . .

Eleazar b. Poʿirah said to King Jannai: King Jannai, such is the law for a commoner in Israel, and you, a king and high priest, should this be your law?! So what shall I do? If you will listen to my advice, trample them. And what will be of the Torah? Behold, it is wrapped up and placed in a corner; all who wish to study shall come and study. R. Naḥman b. Isaac said, Immediately, ***ʾapiqorsut*** was cast into him, since he should have said, It is well for the Written Law, but what about the Oral Law? . . .

Both MSS Munich 95 and Oxford Opp. 248, as well as the Venice edition of the *Bavli* print the word מינות in place of אפיקורסות.

85 Rabinowitz, *Sefer Dikdukei Soferim*, 10:142.

The Jewish Mandate of Martyrdom

Logic and Illogic in the *Halakhah*

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Jewish law requires that a Jew shall suffer death rather than commit any of three specific, grievous transgressions. Such a stark demand should clearly apply only when there is absolutely no alternative to martyrdom, and the inescapable, and preferable, choice is sin or die. By the same token, Jewish law allows Jews to break any law, except for the three, for which death is mandated, in order to escape a martyr's death. This permission seems to provide a reliable, lawful alternative for preserving one's life when the awful choice of transgress or die is presented. This paper will explore talmudic and post-talmudic statements of these halakhic provisions and examine their logical implications. It is suggested that the rules have elements in them which seriously undermine their practical utility. The demand to suffer martyrdom and the permission to transgress all but the three absolutely proscribed sins appears to be more of an inspirational slogan than a reasoned approach to desperate situations. Rhetoric has perhaps bested reason.

Extreme demands portend serious consequences, but those consequences may not turn out to be precisely what the faith or cause which makes those demands intended. The illustrative case in point for this proposition is the Jewish mandate of martyrdom. Judaism traditionally calls upon the faithful to suffer martyrdom rather than commit certain specific violations of the Jewish law. One should expect that such an extreme demand comes with both clarity and logic on two counts. First, the forbidden acts need to be precisely specified and be clearly related to the highest values and ideals the religion holds most dear, the highest in its table of moral values. Second, there should be a logical connection between the sacrifice demanded and the maintenance of the value or standard. Obviously, that connection should be evident to the concerned individual. The connection between the sacrifice and the moral standard should also be such that martyrdom is clearly the only means, or at least the best means, of maintaining or protecting the standard or value.

A mandate of martyrdom appears at first to be inconsistent with the grand demand in Deuteronomy to "choose life . . ." (Deuteronomy 30:19); but the context of that commandment specifies what "life" means: loving and cleaving to God through a reverent obedience to the requirements of Judaism. Tragically, circumstance has over the centuries forced Jews to make a wrenching decision: on the one hand they are duty bound to love and serve God; on the other

hand, they are threatened with physical death if they do so. There is no need to document the fact of martyrdom in Jewish history in painful detail. One need go no further than the liturgy for the Day of Atonement to find it. Whether we speak of the ancient period, the medieval centuries or the twentieth century, cruel death has been the fate of Jews who committed no offense and did nothing beyond simply practicing their faith. In such cases, the Jewish tradition has developed what amounts to a mandate of martyrdom and it is not held to be inconsistent with the biblical text that declares "choose life."

Martyrdom is of course distinct from suicide because in martyrdom the sacrifice of one's life occurs pursuant to a rational choice in order to sanctify the divine. Martyrdom is *al qiddush hashem*. Suicide is contrary to both the letter and the spirit of Jewish law if it is the consequence of a rational process. The rule against suicide does have an exception – namely, that if one takes one's own life while under severe mental and emotional stress, described as *ʾanus kʾshaʾul*, compelled like Saul (by agonizing mental and emotional stress, cp. 1 Samuel 31:3 f.). In such a case the act of self destruction is not suicide in the eyes of Jewish law (*Semaḥot* 2:1, 2; cp. *Mishneh Torah Hilkhoth ʾEbel* 1:1). Such an act under stress may or may not be an instance of martyrdom.

The Talmudic Bases

We are dealing here with elements of the Jewish legal tradition that are as binding upon the Jewish people as any other provisions of the traditional law. This legal rule also clearly embodies a complex theology and philosophy, but those matters are not in point, though some reference to them will in due course be made and a comment on them offered. Further, although there will be some reference to the history and character of the rabbinic texts involved in the mandate, the focus here is on the rule itself as a clear, logical and effective means of achieving what it apparently wishes to achieve: the establishment of the absolute prohibition against three specific violations of Jewish law even if a person is under a death threat to commit one (or more) of them, while at the same time allowing violations of other laws in order to avoid the threat of death for not committing that offense. Those prohibitions are familiar to any student of rabbinic literature; they assert that one is absolutely forbidden to engage in idolatry in any form, or to engage in *gilui ʿarayoth*, a category of sexual violations which comprehends various specifications of incest and the adultery of a married Jewish woman (whether her marriage is of the inchoate type, *qiddushin*, commonly rendered as betrothal, or the fully solemnized type, *nissuin*) or to commit murder even to save one's life. The rule appears to be practical and realistic; it is part of the legal corpus which has as one of its purposes the guidance of behavior in difficult life situations when a choice between life and death becomes necessary.

The rule occurs three times in the Babylonian Talmud, *Pesaḥim* 25a, *Yoma* 82b, and *Sanhedrin* 74a. Two of the texts are the same word for word, while the third text differs in one important respect, a most significant variation in verb gender. When the three talmudic texts have been presented, we shall look at the most comprehensive restatement of the rule that all three texts support. That restated rule appears in the *Shulḥan Arukh Yoreh Deᶜah* 157:1. When that material is firmly in mind, we shall proceed to matters of logic and utility.

Parenthetically, the more or less comparable passages in the Palestinian Talmud, *Šebi'it* 4:35a, *Šabbat* 14:14d, *Sanhedrin* 3:21b, and *ᶜAbodah Zarah* 2:40d, make some of the same substantive points that the *Bavli* does, but the Palestinian texts play no part in the codified *halakhah*. Further, the Palestinian material does not discuss the biblical basis of the provisions, which is the logical foundation for them. The *Šabbat* and *ᶜAvodah Zarah* passages do offer a pertinent remark apparently not found in the Babylonian material. That remark will be introduced at the appropriate place.

B. Pesaḥ 25a f. is the first instance of the rule with respect to the sequence of the talmudic tractates. Which of the three texts actually was the "first" historically is not important here. The material in the three texts seems to have become a fully accepted part of the corpus of tradition by the late second or early third century C.E., if the names and the dates of the Rabbis mentioned in connection with them are any indication of their dating.

The context of the *Pesaḥim* passage is a discussion of what materials are permitted or prohibited for the compounding of medicines to aid a person who is critically ill. The idea of a serious and immediate threat to human life is of course implicit in the discussion, and the value of human life emerges as the value or standard that must be protected and maintained. The question is, how far may the patient or his care givers go in developing this medicine? May they break the law to save a life and if so, is there any limit on what they may do? The Talmud appears to give a wide latitude when a human life is at stake, but it also places a limit on how far the life saving effort may go. The limit involves three serious transgressions of the law which no Jew under any circumstances may commit. Then talmudic discussion suggests that the saving of a human life should perhaps override these prohibitions. The religious commandments, it was held by an authority, were given for the purpose of enhancing and preserving life and should not lead to a person's death. This view is based on Leviticus 18:5, "... ye shall therefore keep my statutes ... which if a man do them he shall live by them" (not perish because of them). This argument is rejected and denied and a mandate of martyrdom is instituted. A threat to human life, from one source or another, is indeed the background for all the talmudic texts examined here; it is present either implicitly or explicitly.

The text in *Pesaḥim* lays down that all substances may be used for

compounding medications except for materials from a tree devoted to idolatry. A dictum of R. Eliezer makes the point: commenting on Deut 6:5, "And you shall love the Lord your God with all your heart, with all your soul and with all your might . . . ," he poses the following question. Why are both soul and might mentioned? He answers by declaring that if one values his person, his life, more than his might, understood as wealth or "substance," the verse is seen to declare that the loving service of God requires all of that life – even to its sacrifice or conversely to the sacrifice of all wealth or substance (or indeed both soul and substance if need be). One is simply to sacrifice one's life or all one's substance rather than have anything to do with idolatry or its materials or any of its manifestations.

The passage next cites the dictum of Rabin in the name of R.Yoḥanan, who declared that all forbidden materials and substances (e.g., non-*kasher* meat) may be used in the compounding of medicines except for materials used in idolatry; in the specific case under notice, the wood of a tree devoted to it. Rabin's statement continues with the assertion that one is not to save a life (one's own or another's) by means of any engagement in any act which falls under the category of *gilui ᶜarayoth*. Finally one is not to save his or her life by killing another human being unless that act is mitigated by the element of self-defense or the defense of others, a matter we shall eventually consider in more detail, or by the element of accident, or some other similar factor.

We now have one talmudic formulation of the classic rule on the limits Jewish tradition places on saving a human life, one's own or another's. Clearly the tradition places a high value on human life but that value is not absolute. There are very well defined boundaries in the matter. (In a passage in *b.Ketub.* 19a, R. Ḥisda suggests that R. Meir held that the reference to "witnesses under compulsion" or "under duress" in the *mishnah* on 18b means that if the witnesses are threatened with death if they do not attest an untrue document with their signatures, they should die rather than sign. Rava promptly says that if anyone sought his advice on such a matter he would counsel the person to sign and not to die. R. Meir's opinion clearly played no part in the development of the *halakhah* in this matter.) All three offenses are desecrations. The first is a desecration of deity. The second is a desecration of the people Israel through an act which infringes its system of intimate human relationships. The third is a desecration of a fellow human being. Each one of them is a capital offense in itself and therefore a person who has committed one such offense has, so to speak, theoretically forfeited his or her life under the classic rules of Jewish law (*m.Sanh.* chaps. 1–9 provide the pertinent details). Thus it follows that a person may not undertake to save his or her life by doing something that (again, in theory) requires a capital penalty.

The *Pesaḥim* passage proceeds with the reasoning behind R.Yoḥanan's state-

ment, which has nothing directly to do with the manufacture of medicines. The idolatry exception is based upon the interpretation of Deut 6:5 – service of God and God alone shall require the sacrifice (if need be) of all one's substance and even one's very life. The exceptions for *gilui ʿarayoth* and homicide come from a teaching of Rabbi based on Deut 22:25, 26 and upon a foundation of what is termed sound, logical reasoning. The Deuteronomy text is given in full:

> . . . But if the man find the damsel that is betrothed (i.e., she is legally married to another but the marriage is not yet fully solemnized; the Hebrew term *naʿarah,* used here, is understood in rabbinic tradition to be a female between the ages of twelve years and twelve years six months) and the man take hold of her and lie with her; then only the man that lay with her shall die. But to the damsel you shall do nothing; there is in the damsel no sin worthy of death. For as when a man rises against his neighbor and kills him, even so is this thing . . .

We see that the adultery-rape and the murder are taken together as a "logical unit" in the passage. The talmudic examination of the passage proceeds on that basis. A question is posed: what does the case of the murderer imply for the betrothed woman? Rather say that the case of the betrothed woman has an important implication for the case of the murderer! To be specific, the betrothed woman may be saved from her attacker by others – even at the cost of the attacker's life if necessary. The implication for the murderer, or better, the potential murderer, is that he, too, may be killed in order to prevent him from carrying out his design. The Talmud steps beyond the obvious comparison of the innocence in these situations of the homicide victim and the rape victim. The focus has become how to deal with the attacker rather than the legal status of the victim.

The case of the potential murderer has, however, its own implication for the case of the betrothed *naʿarah.* In the case of the potential murderer, an attacker is to die rather than commit the offense; so, too, should the betrothed woman suffer death rather than commit the transgression. The plain sense of the talmudic passage is unmistakable; the verbs applying to the *naʿarah* are in the feminine. In other words, death before dishonor. It is better to die than to transgress. Clearly, however, the comparison is awkward. The potential murderer and the *naʿarah* are both "transgressors," but her transgression is something she is violently forced to do, while the potential murderer at this stage of the presentation appears to be a willful aggressor. As we shall observe, this impression of the potential murderer is much modified by the talmudic discussion, but he is, at this stage in the discussion, understood to be willfully engaged in the commission of the homicide. The commentator Rashi only remarks on the matter of the

permission to kill the *naᶜarah*'s attacker, but *tosafot* (*Pesaḥim* 25b, see under *ʾaf*) simply negate the plain meaning of the text: the rape victim need not die, she may suffer the attack, but she should not be killed; the attacker shall die – all of which is the sense of the biblical context. *Tosafot* explain their ruling by stating that the *naᶜarah* was entirely passive in the attack, she performed no overt act that would make her guilty of any offense. Indeed the *tosafot* go so far as to say that the *naᶜarah* should die rather that commit an overt act in this situation; as long as she is entirely passive she need not become a martyr. We shall return to this striking difference of opinion between the plain text of the Talmud and its later commentators in due course, but for the present it is only noted.

The talmudic discussion now moves to the matter of homicide: how do we know that a potential murderer should die rather than transgress (this is the basis of the implication that the potential murderer's case has for the rape case)? The idea is taken as a matter of *sevaraʾ*, "reason," or, perhaps "sound logic." A story is then related to make the point. A man came to the great talmudic authority Rava and declared that the headman of his village had ordered him to kill a person or suffer death himself. Rava told him to suffer death rather than commit murder (that is, rather than stain himself with so great a transgression) and he illustrated the matter by saying, "What reason do you have for thinking that your blood is redder than his; perhaps his blood is redder than yours!" That is, you have no authority to hold your life superior to another's. This notion is imported into the case of the *naᶜarah* as we have seen – she is to die rather than transgress according to the clear sense of the *gemara*.

Since the man in Rava's cautionary tale has not yet actually done anything, he should be characterized as a "potential" murderer. The coercion to commit homicide, as we shall see, need not necessarily lead to homicide. The homicide is only a potential matter in both the biblical material and the rabbinic material that are cited as the basis for the rule (*b.Sanh.* 73a); there is only discussion of the aggressor who pursues another to kill him.

A second version of this entire text appears in *b.Yoma* 82b. The context is again the matter of saving an imperiled life, even if that requires feeding a person on the solemn fast of Atonement, because nothing can stand in the way of saving a human life except involvement with idolatry, violation of the rules on *gilui ᶜarayoth*, or violation of the rules on murder. Then follows a verbatim version of R. Eliezer's comment on Deut 6:5 – service of God demands one's whole self, whether physical or spiritual. Idolatry is absolutely forbidden even if that means one must suffer martyrdom. The exceptions of *gilui ᶜarayoth* also come from the dictum of Rabbi, as was noted above, but here there is a different twist to these two exceptions which are again taken as one unit of reasoning. The reasoning begins with the examination of Deut 22:26 as before. Then comes the question, what implication does the case of the potential murderer have for

the betrothed *naʿarah*? One might propose that, on the contrary, her case has an important implication for the matter of the potential murderer: specifically – it is lawful to save her at the cost of the attacker's life if need be, and so too in the case of the potential murderer – he should die rather than transgress.

But the text differs from the *Pesaḥim* version here. The verbs in the phrase that refers to the *naʿarah* are inflected in the masculine, not the feminine as they were in the *Pesaḥim* text. Now we have, "he shall die and he shall not transgress," rather than "she shall die and she shall not transgress." Rashi comments on the matter: the meaning of the passage is that just as in the case of the potential murderer, if he is ordered to kill or be killed, he shall die rather than transgress, so as well in the case of the *naʿarah*, he – the potential rapist – shall die. The potential rapist is also presumed to be under threat in this case – "either rape the betrothed *naʿarah* or die!" The *naʿarah*, however, declares Rashi, is under no duty to sacrifice her life since her role in the attack is entirely passive, she is "mere earth." This passivity is the point which is picked up in the *tosafot* comment to the *Pesaḥim* passage. But the important element here is that Rashi, on the basis of the masculine inflection of the verbs, explicitly imports the element of threat with respect to the rapist – he is not so much the brutal attacker, but some hapless fellow who is himself threatened with death if he does not violate the law with respect to *gilui ʿarayoth*.

This turn of events certainly deserves some careful analysis as to its congruence with reality, but that line of comment depends upon the analysis of the reasoning behind the exception of murder itself which appears in due course. When that has been explored, the element of threat in the matter of the *naʿarah* will receive its due. The problem of the masculine inflection will become clear, or at least clearer. Whether or not Rashi's assessment of the matter, which became an accepted interpretation of the text, is congruent with reality may or may not have been an important question for the Rabbis. Yet we are dealing with legal materials, certainly intended in some sense to apply to the circumstances of human life. Throughout this inquiry it is assumed that the law is attempting to deal with reality. But the third version of the talmudic text is now up for review.

The third version appears in *b.Sanh.* 74a in the course of the discussion of the mishnah which provides that certain persons may be saved from committing transgressions even if the rescue can only be effected at the cost of the attacker's life; the list includes the person who pursues another to kill him and the person who pursues the betrothed *naʿarah* to rape her. The person who would commit idolatry is expressly excluded from the list of those who may be killed in order to prevent them from transgressing. Our text appears as a report by R. Yoḥanan in the name of R. Simeon b. Yehozadak. The report relates that the sages decided by majority vote taken in the town of Lydda that, with respect to all commandments of the Torah, save the three that have been noted, if a person is threatened with death if he or she does not transgress those commandments, he or she

may transgress them and thus escape death. The context, however, is no longer the preparation of medicines for an ill or injured person, or the feeding of the very sick on the fast of Atonement, but rather a malevolent threat from some person: do this or die. The threat here, as in the other two versions of the text, is assumed to be credible; that is, the person making it has both the means and the ability to carry it out. The threat presumably comes from a non-Jew; the vote that was taken in Lydda may easily have come from the early part of the second century C.E. when the brutality of the war fought in the previous generation was still quite fresh in living memory. Roman troops and officials were everywhere in Judea and doubtless ill-disposed to Jews and their faith, and matters were building toward another Judean revolt. Discussions and decisions on a subject like martyrdom do not arise when times are quiet and inter-group relations are good. This sort of provision reflects a desire to allow the faithful some latitude for saving their lives when faced with cruel choices, and that is obviously a laudable purpose. Notwithstanding the likelihood that the rule contemplated non-Jewish cruelty, the rule also covers threats made by Jews against Jews, whether or not the threateners were working for the Romans or indulging their own taste for brutality. The discussion also dismisses the view that idolatry may be practiced in private if a person is ordered to do so upon pain of death for non-compliance because, after all, the commandments were for the purpose of life: "... he shall live by them" (Lev 8:5). The implication is of course that they should not lead to a person's death. The Talmud, however, adopts the view of R. Eliezer, noted in the other two versions, based on Deut 6:5 -- service of God requires a person to sacrifice everything, even life if need be; there is no room for idolatry even as a means to save one's life or property. Then comes the familiar dictum of Rabbi, which couples *gilui ʿarayoth* and homicide. Again there is the citation of Deut 22:26, and again the case of the *naʿarah* is shown to have an important implication for the case of the potential murderer: as she may be saved at the cost of her attacker's life, so, too, the potential murderer is killed to save his intended victim – if that is what is necessary to save her. Then the converse is also asserted: just as the potential murderer shall go to his death rather than commit the transgression, so too the *naʿarah* shall suffer death rather than commit the transgression. The verbs are again in the feminine -- she shall be killed and she shall not transgress. The matter of the potential murderer is again noted as a matter of sound sense, of logic and reason, and we have a repetition of the story of Rava's advice to the unfortunate fellow who was ordered to kill on pain of his own death for refusal. He cannot say that his blood is redder than another man's blood; perhaps the other person's blood is redder. Again we are advised that no one has the authority to hold one's life superior to the life of another, or so it would appear.

These three talmudic texts as a whole strongly suggest that there is a rather broad range of permission to engage in transgression of the law in order to save

human life, one's own or another's. One cannot break every law of course, the three exceptions are made plain; but those aside, the field appears to be wide open. The *ʾamoraim*, however, do not allow this rule to pass without placing some restrictions on it, restrictions so severe that the rule becomes a virtual nullity in precisely those situations where it could really save lives.

The *Sanhedrin* version of the text elicits a series of *ʾamoraic* comments on the rule, *b.Sanh.* 74a f.; these comments do not appear in the other versions. First, R. Dimi asserts that the rule holds good only when there is no "royal decree," that is, when anti-Jewish agitation is sanctioned by non-Jewish authority and may be widespread. In that case, the *gemara* presently explains, the Jew must suffer a martyr's death even for refusing to transgress some very minor practice. Whatever the actual historical context for the origin of this rule may be, under this modification when anti-Jewish activity has been sanctioned, no Jewish wrongdoer can excuse his or her violation of the law by the claim he or she was under a death threat. (The three exceptions to the rule: idolatry, *gilui ʿarayoth* and homicide were of course never excusable.) Severe threats against Jews clearly are much more frequent during times of anti-Jewish activity. Those are the times when lives are likely to be in danger. But the rule now specifically excludes them; when the group is in danger, every individual must be willing to sacrifice his or her life for the sake of their divine sovereign, to die for the sanctification of the Name, *ʿal qiddush hashem*, even over a minor matter. No excuse will be entertained in times of persecution, when in fact Jews did suffer martyrdom.

The talmudic passages that assert the rule do not however require the assumption of sanctioned anti-Jewish activity in order for them to make sense. Even the demand to worship an idol need not be part of a general demand by the government to show respect for foreign deities; it may be an individual demand against a specific person. The matters of *gilui ʿarayoth* and homicide are also perfectly reasonable without a background of general anti-Jewish agitation. The texts are easily understood as contemplating an occasional private eruption of violent and anti-social behaviors that mar society even in the best of times. The duty to sanctify the divine Name always exists. The limitation on the "death threat" excuse perhaps makes explicit what is implicit in the talmudic texts. The net effect, however, is to withdraw the excuse just when people would be most in need of some excuse or justification for transgression committed only in order to save their lives.

Rabin then teaches in the name of R. Yoḥanan that even where the anti-Jewish activity is not sanctioned by non-Jewish authority, a life-saving transgression could only be performed in relative privacy, which is explained as an act done when there are less than ten adult male Jews to witness it. The presence of those ten Jews makes the act "public" and the Jew may not be suffered to transgress and profane divinity in a public situation. Finally, Rava, whom we have already encountered, adds a further limitation with respect to a "public act" (that is,

Esther's involvement with Ahasueras): according to Rava, the tormentor who makes the mortal threat must make the demand for his (or her) own personal benefit; and not demand in such a manner that the intent behind it is to make the Jew transgress or change his or her religion. On this basis Rava excuses Esther's dalliances with Ahasueras which were clearly public knowledge: Ahasueras was intent on his own pleasure and had no idea that Esther was a Jew, a matter she had been strictly charged to keep a secret (Esther 2:10). Rava relates an example to support the view that a transgression done under mortal threat need not cause the Jew's death if the transgression is for the tormentor's personal benefit and not an attempt to convert the Jew or merely to have him violate Jewish law. If a gentile tells a Jew to cut the grass on the Sabbath and give it to the animals (presumably the tormentor's animals since offense is for the tormentor's benefit), or die if he refuses, the Jew may cut the grass; but if the demand is to cut the grass and throw it in the river, or die, the Jew should die because the act serves no purpose other than, presumably, to force the Jew to violate his religion. Thus the *gemara* has reduced the scope of the rule that under mortal threat one may transgress any law, save the three, to instances in which the tormentor is not part of a sanctioned anti-Jewish attack, the act is in "private," and the tormentor seeks only his or her own pleasure without intent to make the Jew violate Judaism. The *tosafot* to *b.Sanh.* 74b, see under *q'tol*, relates Rava's story to a similar one found in *b.Yebam.* 121b in which a Jew suffered death because he would not violate the Sabbath by cooking something for his tormentor. *Tosafot* make it very clear that that violation of the Sabbath need not have led to the man's death because where the pleasure or benefit of the tormentor is the motive behind the demand, the Jew may transgress, assuming of course that there is no general anti-Jewish agitation going on and there is no "publicity" for the act. A Sabbath violation is apparently not *per se* an indication that one is "changing religion." That is just as well because to suggest otherwise would open the door to much more martyrdom. This view of course comports with Rava's. The tormentor is simply not interested in the matter of Sabbath, only his or her own benefit or pleasure which is to be served even if it takes a death threat to do so. Indeed the utility of the rule has been severely limited owing to the *amoraic* restrictions engrafted onto it. In due course we shall examine the implications of the modifications of the original rule. But first we should reiterate the rule in its "finished" form.

The *Shulḥan ʿArukh* Restatement of the Rule

The post talmudic authorities adopted the context of threat noted in *b.Sanhedrin* 74a. The *Shulḥan ʿArukh Yoreh Deʿah* 157:1 compiled by R. Joseph Caro in the sixteenth century and glossated by R. Moses Isserles (the *Remaʾ*), Caro's contemporary, in Cracow Poland, offers the most comprehensive detailing of the

rule. The title of the chapter in which it appears bears the title "The Transgressions for Which One Shall Suffer Death Rather Commit the Transgression."

The rule provides that, with the exceptions of idolatry, *gilui ʿarayoth,* and homicide, if a person is threatened with death if he or she does not transgress some commandment of the Torah, he or she has certain options. If the incident occurs in secret or in private, that is, the "public" could not witness the act, the person may transgress and need not be a martyr, but he or she may choose the more severe path of martyrdom if the intent of the threatener is to have the Jew deny or forswear Judaism by breaking the law.* A gloss of the *Remaʾ* expands the matter: if a person may save himself or herself from mortal threat by paying his or her entire fortune, the person must do so – and avoid the transgression of a negative commandment by so doing. Even though (reading with the seventeenth century commentary *Ture Zahav* of R. David Halevi thereto) they said that anyone who has the wherewithal to protest (some matter of forced transgression) and does not do so is held blameworthy in that iniquity, in any event where there is a sense that anyone raising such a protest may be in serious danger by doing so, (that person) is not required to spend his or her money in that cause. Isserles takes this last provision from the responsa of R. Jacob Weil, fifteenth century Germany, responsum no. 196.

* The idea of "optional martyrdom" prompted a flurry of comment among the authorities who appended their analyses of the text of both the *Ṭur Yoreh Deʿah* and the *Shulḥan ʿArukh Yoreh Deʿah,* ad loc. Judah Ashkenazi Tiktin's eighteenth century commentary, *Baʾer Hetev,* to *Shulḥan ʿArukh Yoreh Deʿah* 157 *ʾoth ʾaleph,* summarizes the principal points of view. If the gentile is intent only on his own benefit, R. Jeruham holds that it is wrong to accept the martyrdom option. R. Joel Sirkes's (sixteenth to seventeenth century) commentary *Bait Ḥadash* to *Ṭur Yoreh Deʾah* 157 offers the observation that even if the transgression is "public" martyrdom is not an option because the offense was committed only for the tormentor's benefit. The *Perishah* (R. Joshua Falk Cohen, seventeenth century) to the same material in the *Ṭur Yoreh Deʿah* asserts that martyrdom is indeed an option if the act is public – particularly if the circumstances surrounding the event are such that martyrdom appears necessary; all would agree that it is an option in those circumstances. R. Joseph Caro in his *Beth Yosef* to *Ṭur Yoreh Deʿah* 157 writes that if the Jew under threat is a great and pious person and he sees that his generation is lawless, he is permitted to sacrifice himself even in the case of a death threat over a minor matter. He does so in order that people may observe what true love of God involves. The *Bait Ḥadash* rules, in accordance with Maimonides, that anyone who chooses martyrdom when it is not necessary has sinned mortally against himself, (see Maimonides's *Hilkhoth Yesode Hatorah,* 5:4). Others take a different view and reason that when there is a disagreement among major authorities, a more lenient view should be adopted in a matter concerning danger to human life. Yet, in this particular case, sanctification of the divine Name is also a consideration, and the Torah is not so fastidious over loss of Jewish life in such a situation. The *Baʾer Hetev* also records the opinion that the sanctification element makes this matter materially different from other cases of danger to human life, and this commentary also notes the suggestion of a case by case basis for deciding this question. Clearly the great rabbinic authorities have taken sides in the problem of "optional martyrdom"; their remarks indicate the range of questions unresolved by the bare statement of the *Shulḥan ʿArukh* itself. No compilation can cover every contingency.

The main text resumes with the talmudic provision that the transgression must not be a public act, that is, performed in the presence of ten adult male Jews, because if the demand is for a transgression in public, the person should die rather than transgress. If the non-Jew who makes the demand has the intent of making the Jew deny or forswear his faith – even if the transgression demanded pertains to something as inconsequential or minor as a shoe strap – such a public transgression amounts to an open profanation of God. That is intolerable to rabbinic authorities. If however the non-Jew making the threat is only doing so for his or her own pleasure or benefit the Jew may transgress and not suffer death. (One might suggest a scenario, far-fetched but possible: the non-Jew simply wants the Jew to eat some specially cured ham the non-Jew has just made as a special order for a very important customer. He wants someone to test its quality and taste immediately so the order is not delayed an instant longer than necessary – *and has no idea that the Jew is forbidden by his religion to eat ham and he really does not care.* The Jew refuses to eat, the non-Jew insists, and somehow a mortal threat, eat or die, got involved in the matter!) If the threat "Do this thing or you will be killed" comes during a period of anti-Jewish agitation and oppression and it is made for the express purpose of either killing or converting Jews, the Jew facing the threat of death, even over a minor matter of Jewish practice or custom, shall suffer death rather than transgress.

A gloss of *Rema* ʾ once again breaks the flow of the Caro text to point out that these threats of death made during anti-Jewish agitation and oppression refer to violation of the negative commandments. If the anti-Jewish decrees involve positive commandments, it is not then necessary to perform them and die because of them – although if the circumstances are such that one feels he must perform the positive religious duty and is willing to die for it, he has that option.

The *Shulḥan ʿArukh* now returns to the texts of present interest: with respect to idolatry, *gilui ʿarayoth,* and homicide: even if the mortal demand is made without a "public" presence and there is no specific anti-Jewish activity abroad, and even if the non-Jew making the death threat is only bent on his or her own pleasure at seeing the Jew suffer, the Jew shall suffer death and not commit the transgression. Another gloss amplifies this last prohibition: the Jew shall suffer martyrdom only when the threat involves the Jew's performing some overt transgressive act as indeed the talmudic examples of rape and murder suggest. The situation may be that the tormentor says to the Jew that he must engage in adultery with a married woman, or kill (with his own hand). If however the tormentors forcibly rape a Jewish woman (betrothed or married) or they want to throw a man onto an infant so that his weight will crush the child or they take a man who is already sexually aroused and force him upon a woman who is in the category of *gilui ʿarayoth* with respect to him, the man need not suffer

martyrdom. The gloss adapts a view of the *tosafot* to which we have already referred; neither the raped woman nor the threatened man is deemed culpable of any overt act.

Any aspect of the prohibitions pertaining to *gilui ᶜarayoth,* that would not involve a capital offense under Jewish law, but only the violation of a negative commandment, requires the person nevertheless to suffer death rather than overtly transgress, as we find in the sad tale of the lovelorn lad of *b.Sanh.* 75a who was not suffered even to speak with his inamorata to save his life. The gloss then moves on to other matters, but returns to a point of interest to this inquiry in its last few lines. There it is provided that wherever the person under threat has complied with the threat and not suffered martyrdom, even though that person has profaned the divine name, in any event the person is deemed under duress and not held culpable, provided that he was unable to flee his tormentors. If he was able to flee and did not do so, he is like a dog that returns to its own vomit (Proverbs 26:11) and is held to be a wanton transgressor according to Maimonides, the source cited in the gloss. The matter of flight to avoid the threat will figure into the analysis of the entire subject under notice, and we turn now to the first stage of that analysis.

The Analysis of the Rules Part I
The Permission

The subject here is mandated martyrdom. That mandate, however, arises as a broad and sweeping contrast to a sweeping permission to transgress the law: that is, any law except for the three well-noted exceptions. The topic, as we have seen, comes to light in two quite different contexts: medical emergency or a credible death threat by some person or persons. The link between the contexts is that in both of them there is a direct and immediate threat to human life. In both contexts the impulse of the law tends toward a valuation of life. It is precious and must be protected. One may employ any material for medication or violate any law in order to save that imperiled life, but the line is drawn when the matter involves idolatry, *gilui ᶜarayoth*, or homicide. Those violations are beyond the pale; not even immediate danger to human life is sufficient to override them. Thus there *appears* to be a broad but not absolute permission to do what is necessary to save human life, and that is clearly laudable and morally unimpeachable.

In the context of credible death threat, however, we learn that the broad permission is not at all what it at first glance seems to be; and this leads us to an examination of possible logical implications of the rule which do not appear to have been considered in its formulation. The permission to break any law (except

for the three notable exceptions) does not apply, as we have noted, to an act done in public, in the presence of the ten Jewish men, or where the intent of the threatener is to make the Jew forswear his or her religion. If the threat – a death threat no less – only reflects the bully's desire to achieve some strictly personal goal, the Jew need not suffer death, for an act done in private. Surely, however, one might imagine the very point of tormenting a Jew (even in the best of times there are bullies) is to get him or her to do something contrary to Judaism. The personal goal and personal pleasure of the bully, one might easily say, lies simply in seeing the Jew writhe in anguish over violating his religion. One would almost have to imagine that the bully were unaware of his victim's religion and its demands, which is not the case in Rava's example nor in the material cited from *tosafot*. Finally, the permission is withdrawn when there is some specific anti-Jewish agitation besetting the Jewish community.

Even with its limitations, the rule is often understood as a rather noble attempt to protect life when it is threatened; there is a sense that these texts are striving to assert a high moral tone. Notwithstanding the limitation on the scope of its utility instituted by the *'amoraim*, let us examine it as though it were a genuine attempt to preserve human life in the face of a mortal threat of some sort. That sense of matters rests upon two points of view that may not, however, be quite so accurate as one would hope. First, the focus is on the victim of the death threat, understandably so since he or she is the focus of the rule as it stands; he or she may save his or her life by breaking the law. The transgression, it seems to be assumed, would affect no other person. Second, the sense rather assumes that the sort of thing that the Jew would be required to do on pain of death would be something to do with his or her Judaism. The person would be threatened with death if he or she did not eat forbidden food, or light the bully's cigarette on the Sabbath, or deface *tefillin* or something along lines involving the practices and observances of Judaism as such, assuming that the bully had no idea Judaism forbade such acts.

The problem here is that of course the Talmud looks at the matter from within the tradition: what would cause the Jew the most humiliation, the greatest shame, in terms of his faith? And that view is certainly reasonable and correct as far as it goes, but it is not the only possibility. The sadistic bully is probably not a Jew, and may not care at all about Judaism. In fact the better scenario involves a tormentor who neither knows nor cares about Jews and Judaism, like Ahasueras! The tradition does not explore the bully's motives or state of mind beyond mention of the possibility that the bully wants the Jew to convert (the Jew must die) or the bully is intent on his own pleasure or benefit (the Jew may live).

The bully's pleasure may however frame the threat in terms of third parties, persons other than the one directly threatened, and have nothing at all to do with the victim's religious faith or practice, forbidden food, or Sabbath viola-

tion. The bully may indeed say something like this: I want you to get Mr. X (a Jew for the sake of argument) and beat him bloody, break his bones, *but do not kill him.* It was noted earlier that the Palestinian Talmud makes a pertinent remark that would be introduced at the proper place. This is that place. *Y.Šhabb.* 14:14d and *y.ʿAvod. Zar.* 2:40d say that not only is a person to suffer death himself rather than commit murder, but even if the demand is only to use physical violence against that third person (the Jew is to die rather than inflict injury). Although this sentiment does not make its way into the final shape of the *halakhah,* the idea that the cruel demand may be couched in terms of violence rather than homicide is clearly acknowledged as a distinct possibility. Perhaps the bully wants revenge on a Jew who he believes has wronged him and nothing would please him more than that another Jew were the instrument of his vengeance. Or the threat may demand arson or robbery on pain of death.

If the Jew chose to commit the demanded offense, he or she would doubtless take pains to act when and where he or she could not be seen and identified, when the victim is alone, or in the dark of night where there would be no Jewish presence to render the deed a "public act." The permission to transgress in order to save one's life is a sweeping, inclusive permission; a person may transgress *any* law, and there are certainly Jewish laws against battery, arson and robbery. Could the Jew then thrash and bloody Mr. X and plead that he did so because he was under a death threat for non-compliance? Perhaps so, perhaps not. Jewish law asserts that there can be no agency for an unlawful act and the rabbis would have no difficulty interpreting this rule to mean that no contract to commit an offense can be valid (*b.Qidd.* 42b, a general principal in Jewish law). But that rule would in any case not apply to a non-Jew; the matter becomes moot. On the odd chance that the bully is in fact a Jew, could the person acting under threat be considered in any sense an "agent" of his tormentor? Is not the rule that the person under threat may break virtually any law posed as it is so that the person acting under mortal threat would be relieved from liability for what he or she might have done? Surely a Jewish tormentor would be held liable in some way. One can only imagine that such a non-Jew would roar with laughter if a Jewish court made Jew A, whom he threatened, pay for the damage he caused to the Jew B, the person he had demanded Jew A harm. For that matter, a Jewish bully might laugh even harder. The question need not be decided here. In any event, harm, perhaps permanent crippling injury, has been done to some third party. And even if one may be culpable or liable in such a case for damages or medical costs, etc., the threat clearly involves more than the person directly threatened. How much more serious does the ultimate effect of the mortal threat become if the threatened person carries out the deed and is held not to be liable to the third party because he was acting under duress. This rule, narrowly framed to apply to the well being of just one person, may indeed lead to some

very negative consequences for another person, and the laudable moral high ground that the rule seems to represent even in its final and severely restricted form is seriously undermined.

This sort of duress plea would not of course have been available to the Jewish ghetto police in German occupied countries during World War II; those people operated during a period of unparalleled anti-Jewish activity. Consideration of the tragically abundant instances of Jewish martyrdom in the face of anti-Jewish activity, from ancient times, through the medieval centuries into the modern period and our own day, falls beyond the scope of this inquiry. No documentation nor description need be given here. Jewish martyrdom is a well attested fact of Western history.

When the law adopts a sweeping, inclusive tone, and a very particular and narrow focus, there is the danger that rhetoric may actually overwhelm reason and lead to a result no one envisioned or desired. The law in this case does not assert that one may transgress any law except idolatry, *gilui ʿarayoth*, homicide or any other violation that would cause serious bodily harm to another person. Although it may be unfair to expect the sages to have considered the possible reasons behind a bully's death threats or to have mused over the depths of sadism to which a person might sink, that is perhaps just what needs to be done when their task involves the framing of laws or moral rules that are intended for guiding the real lives of real people. Occasionally the legislator or the moralist is well advised to take a moment just to think like the crook, bully, or sadist the law contemplates.

As has been noted, when anti-Jewish agitation exists, the permission is no longer in force and the Jew must suffer martyrdom in order to demonstrate the strength of his or her faith and thereby to sanctify God's name. When the value of a human life is weighed against the public, or even private, desecration of God's name in some circumstances, divine sanctity clearly carries the higher value.

In the medical emergency context the nature of the transgression is in the power of the patient and his or her caregivers to control, and one assumes that the entire matter occurs in private. They will presumably transgress only to the extent necessary to achieve their laudable purpose, to relieve suffering and effect a cure. In the death threat context (do X – which does not involve idolatry, *gilui ʿarayoth*, or homicide – or die!), the extent and nature of the transgression are not under the control of the person commanded to break the law on pain of death. In both cases the connection between breaking the law and the value of human life is perfectly clear. And in either the medical or the death threat context, if death must come, the Jew knows or should know just why martyrdom and not some possibly lifesaving transgression of the law is the prescribed action. God's name is to be sanctified.

The Analysis of the Rules Part II
The Three Prohibitions

We now proceed to further and detailed analysis of the logic and the utility of the three exceptions to the rule on "breaking any law." The case of idolatry presents no particular problems of logic or symmetry. The demand of the law is solidly rooted in what the sages take to be an unimpeachable interpretation of the Bible. In this exception the Jew is called upon to reject any other deity except God. There is no equivocation; martyrdom is mandated; God is sanctified. The fact that idolatry is a capital offense under Jewish law is really irrelevant. There is hardly any likelihood that the Jew in question would ever be prosecuted for it under Jewish law before a court of 23 with the necessary witnesses and the other procedural requirements in place according to the rules of the *din torah*; or for that matter by any Jewish court exercising emergency jurisdiction to curb wanton outrages against Jewish law (see *b.Yebam.* 90b and *b.Sanh.* 46a).

When we look at the other two absolute proscriptions, which the Talmud treats as a single unit in terms of the reasoning behind them, the picture is not so clear and stark. First we shall look at the matter of rape, or potential rape. Then we move to the matter of homicide or potential homicide, and finally to the application of the logic of the homicide or potential homicide case to the matter of the rape or potential rape, which is precisely what the Talmud itself attempts to do.

To recapitulate briefly: both offenses are suggested in a single biblical passage, Deut 22:25, 26. The reference to the murderer there is supposed to amplify the case of the betrothed *naʿarah* whom the rapist confronts. But the discussion reverses the matter and the case of the *naʾarah* is seen to have an important implication for the case of potential homicide. Just as she may be saved at the cost of her attacker's life, so, too, may the potential murderer be killed to save his victim's life. This is also the explicit provision of the mishnah, *b.Sanh.* 73a, where the term *rodef*, pursuer, describing the person who runs after another with intent to kill or who chases a *naʿarah* with the intent to rape her, is introduced into the *gemara*'s discussion of the matter. The *mishnah* provides that if one encounters such a pursuer in the active prosecution of such unlawful intent, one is to prevent the threatened transgression even if it is necessary to kill the pursuer to do so. The law appears to assume that the persons encountering the pursuer are both willing and capable of engaging him, which indeed may or may not reflect an accurate assessment of the real world. In any event the death of the pursuer is justifiable homicide; the pursuer moreover goes to his death without the sin of rape or homicide, as the case may be, staining his soul, which is no insignificant matter where life is not perceived as only of this

earth, but of the world to come as well. The pursuer's sinless demise, if he can be deterred from his wicked intent by nothing less than mortal injury, may indeed be for the rabbis a desideratum far more important than the welfare of the victim (cp. *m.Sanh.* 8:7 and *t.Sanh.* 9:10).

The texts in *Pesaḥim* and *Sanhedrin* clearly state that the pursuer/potential murderer shall die rather than transgress and just so shall the *naᶜarah* suffer death before she transgresses. The verbs make that plain. But in the third version of the rule, the *Yoma* text, the verbs are in the masculine: it is not she who shall die rather than transgress, but he, the attacker presumably, who is to die if that becomes necessary to stop the outrage. Yet that point had already been made in the talmudic discussion, so the use of the verb in the masculine appears to introduce an uncharacteristic redundancy into the argument. On the basis of the two versions that call for *her* death we have an interesting problem to explore.

The proposition that she should die and not transgress envisions a drama with two characters: a *rodef* who is actively pursuing his prey with the intent to rape and his prey, a betrothed *naᶜarah*. In her betrothed status she is forbidden to have sexual relations, consensual or not, with that pursuer. Possibly a good citizen or two will happen along and thwart the pursuer's plan, chase him away, or thrash him, or kill him if necessary. But the chances of that are very slim. A rapist is a wily criminal who looks for the most promising circumstances for his offenses whether he is seeking targets of opportunity or he is methodically stalking his prey. He wants a victim who is alone in a place that is not frequented by passersby. He wants privacy in order to isolate the victim so that her humiliation may proceed according to his wishes. He also uses the advantage of surprise. He wants to take his victim unawares so that he can quickly overpower her and frighten her so severely that she may become immobilized with terror and will have no chance of mounting any effective resistance. Further, the biblical text describes the victim as a *naᶜarah*, whom the Rabbis define as a female from age twelve years to age twelve and a half years, as we have noted. She is old enough for betrothal and marriage, but nowhere near the full extent of her growth and strength; she is certainly not a match for a man or a boy 16 years or older. She is moreover very probably not used to fighting; her life experience has in all likelihood not led her much beyond her home and its immediate surroundings. But on this occasion she has (perhaps foolishly or against advice) wandered off the beaten track – to a riverside? an orchard? a hilltop?, perhaps to contemplate her forthcoming nuptials. Those are the characters and the reasonable context of the drama.

What are the options available to her in the encounter? Since the rapist has doubtless calculated matters so that the arrival of public spirited rescuers is not really a viable eventuality, the woman is left to her own devices; she had better not rely on outside help. The rapist will certainly take steps to keep her from

calling for assistance, but she may indeed not even think of crying out until it is too late because of an all too common and real possibility in cases of rape. She and her attacker may well be acquainted or even related, and she has no idea that she needs to fear this friend or kinsman until it is too late (consider the events related in 2 Samuel 13 concerning Amnon and Tamar). Or, indeed, the attacker may be a distinguished elder of her community, someone she has been taught to respect; she would never expect violence at the hands of such a man. (Susannah could testify to the lust of respected elders of the community; and while there was no rape in her case, the rebuffed elders took their vengeance on her. They almost succeeded in having her put to death. The apocryphal Book of Susannah is indeed a cautionary tale.)

The plausibility that the attacker and victim are acquainted is enhanced by the fact that women as the Talmud depicts them usually stayed close to home; they were surely not out and about cultivating a large circle of friends. Rapist and victim often know or know of each other, or may be relatives; that is a simple matter of fact. We need not posit two total strangers in the talmudic scenario. Further, the woman may perhaps attempt to flee, but the rapist is probably both stronger and faster than she is. Once she realizes that she is in danger, she may fight, yet, although she may be galvanized to action, it is also possible that she will be frozen in terror. In any case there is little likelihood that she knows the first thing about fending off a more powerful male. Women's self-defense classes are a very modern institution. The balance of probabilities suggests that the victim is alone, weaker than her attacker, very possibly acquainted with or related to the attacker and therefore unsuspecting, and unschooled in self-defense; in such a situation the Talmud calls upon her to sacrifice herself. We should recall here that we are dealing with the two versions that say she shall die and she shall not transgress. But how is she to achieve her death? Is she armed? Probably not, but if she is, does she really have the skill and intensity needed to drive a blade home? Is there a convenient cliff for jumping over? Is there a third story window handy? The rapist probably has her cornered and he certainly does not want to kill her. He wants her very much alive so that he can hurt, shame and humiliate her. He may kill her later but not before he does what he intends to do. She may submit, sobbing and pleading for her life. The Talmud, *b.Sanh.* 73b, suggests the possibility that she submits to save her life because it notes a situation in which the victim calls out to rescuers who did happen along, "Leave him alone or he will kill me." In that case the Rabbis hold that the rescuers may still kill the rapist (at what danger to the victim is not addressed), but R. Judah says otherwise because the permission to kill the *rodef* here comes into play only if she is ready to die – and this victim clearly is not.

According to Rava, Deut 22:26 emphasizes a concern and anger over the dishonor and the literal "cheapening" (*pigma'* – her betrothed husband had put

up a good deal of money for a virgin!) of the *naʿarah*'s value, not her willingness to perish, which is R. Judah's focus. Thus Rava reasons that she is similarly angry and concerned about the dishonor that will literally "cheapen" her. The insistence that the rescuers continue their attempts to save her means of course that she will remained unstained, unblemished, uncheapened. Two elements appear to be at odds here; the girl's virginity and her physical safety. She senses mortal danger if the rescuers approach. If the attacker is stopped and she is badly injured in the melee, the attacker is saved from the commission of a gross sin and the betrothed husband's property, her virginity, is not destroyed. If the attacker is not stopped, the virginity is lost, but she is not exposed to further bodily injury in the fight. Her virginity carries the greater weight if the rescuers proceed. Anyone who has ever tried to use physical force on a violent person knows very well the risks to everyone concerned – in this case the *naʿarah* is obviously at risk. On balance the girl's physical welfare, apart from her virginal welfare, does not seem really to influence the decision to press on with the rescue. In sum then, death in this case, which must mean suicide, is really something less than a viable option for her.

Parenthetically, the rape of an unmarried woman, while certainly a very serious offense in its own right, does not rise to the serious level of the rape of the betrothed *naʿarah*. That is treated in an entirely different manner, which suggests also that, for the law, the destruction of the victim's virginity, and thus her bride value, is the major consideration in the punishment of the rapist. The Jewish laws applicable to rape, however, are beyond the scope of this inquiry. The unmarried woman is not urged to die rather than transgress, but clearly suicide is not out of the question in times of anti-Jewish activity. The possibility of martyrdom, however, is suggested in the tale of the 400 young girls and boys who were carried off and faced sexual exploitation. They threw themselves into the sea to escape that fate (see *b.Gittin* 57b and Rashi thereto). The later legal tradition does not of course declare a hapless unmarried woman victimized in this way subject to any penalty or punishment under the law.

The *naʿarah* in point for the legal tradition here, however, is the betrothed *naʿarah,* who is subject to the laws of adultery. Deuteronomy had long before asserted that she had done nothing worthy of a capital penalty if she were attacked and raped. The rabbis describe her, certainly for legal purposes, as "earth," passive; she performed no overt act. Indeed many rape victims will later state that they did in fact just lie there, terrified and in pain, just hoping for the attack to stop, hoping to get out alive. Although the law styles her "earth," the purely passive recipient of the attentions of the rapist, she is more likely to be a frightened, whimpering soul in unspeakable pain, terrified lest any movement of arm or leg or head inflame the attacker's anger. Earth does not know terror or pain. So much for the possibility of death before dishonor. The rapist who was, on any

reasonable assessment of the attack, in total command, wanted her alive, and he would probably restrain her violently from taking her own life. The tradition on the one hand exhorts her to die and not transgress, but on the other hand she is brutally forced into what she does – passive or not – and therefore not culpable of any offense for having submitted to force and violence. The medieval authorities are forthright on the point: she need not sacrifice her life; she need not struggle to her death. As between the clear statement of the Talmud and the later commentaries, we have a tragically mixed message.

One can only speculate on the effect of the attack on her later life. Would news of the attack get around? What would her bridegroom say or do? Would he avenge her or would he scorn her entirely and formally divorce her? What would her family do? Would they avenge her somehow? Would she be blamed for the attack (what was *she* doing *there*)? Would she suffer depression all her life? Would she relive the event whether awake or asleep for years to come? What would have happened if she had done this, not done that? Was there anything she could have done that she did not do? These are only questions for speculation. But we may be certain that the *naʿarah* of the Bible and Talmud, no less than her modern sisters, would have difficulty in her life making sense of "she shall be killed and she shall not transgress."

Moreover, her martyrdom would entail in itself a curious result. Obviously her death would be a sanctification of God's name. She died rather than engage even passively in sin. She perishes unsullied. But so does her attacker. Her death prevents him from committing a sin under the heading of *gilui ʿarayoth*. She benefited her attacker with her last mortal act. He can be held on no charge. The attacker will eventually go to his death without the sin of *gilui ʿarayoth* on his immortal soul (at least from this incident!), which is no insignificant matter where life is perceived, as it is in Jewish tradition, as a matter not only of this earth but also of the world to come and eternity.

The oft-repeated traditional notion in Judaism – that all people shall be held to account postmortem for their earthly sins – certainly contemplates a judicial review by a celestial court for this attacker. That court would surely hold the attacker accountable for his part in any injury the girl suffered or for her death if she died as a result of the rescue attempt. Surely divine justice would hold him accountable if the girl actually succeeded in killing herself, but here on earth, her death was arguably as much a benefit to her attacker as it was a sanctification of God. This is a mixed message indeed.

The waters become even murkier when we examine the exception of homicide. In both the idolatry and the rape situations there were two actors: the threatener/attacker and the threatened victim. In this exception we have three actors, or four if one counts the rabbinic adviser. We also recall that the argument in the rape case was linked to the argument in the homicide case; and the reason why

a person should die rather than commit murder to save his or her mortally threatened life is for the Talmud a matter of sound good sense, of logic. We have in that regard the advice that the distinguished sage Rava gave to the hapless fellow whom the village headman had threatened to kill if he did not kill someone the headman has marked for death: die but do not transgress; no one can say whose blood is redder than whose – you have no authority to hold your life superior to that of the other person.

The idea has a noble ring to it, but another talmudic passage somewhat undercuts it. In *b.B.Meṣi*ʿ*a* 62a we find R. Yoḥanan commenting on Lev 25:3 ". . . that your brother may live with you." The Rabbi poses the situation of two people who are on a journey. They have only one bottle of water between them. That one bottle will not suffice to keep both of them alive until they reach civilization again. If both drink, both will die. If only one drinks, he will survive. Ben Patura argued that both should drink even if that means death for both of them; this is better than one having to witness the death of the other. One may possibly detect in this view a version of Rava's advice: who knows who has the redder blood? R. Akiba, however, later interpreted the same Leviticus material to mean that one's life does take precedence over the other person's life. That is, one person should drink, even if it means sure death for the other because Scripture says ". . . that your brother may live with you." There must be a "you" for the brother to live with and the preservation of that "you" is a necessary condition if that brother is ever to live "with you." Granted that in this case there is no human agency issuing the threat, but the "natural" threat of death by dehydration and exposure looms over both travelers. This threat of death from a "natural" cause is akin to the medical emergency, another natural cause, and a situation in which human life enjoys a high, but not absolute, value. Granted as well that one person does not have to lay violent hands on the other. All he need do is to contrive to keep the water away from the other person and sooner or later he will die. The point is that R. Akiba (the same R. Akiba who declared that if he were to sit as a judge in a capital case he would have prevented the court from ever convicting on the capital charge, *m.Mak.* 1:10) does allow A to hold his life superior to the life of B. The idea that one is not to value one's life above the life of another even in the face of a mortal threat has lost some of its compelling and absolute power since. This passage from *b.B.Meṣi*ʿ*a* does not become part of the legal tradition. How could it? How could one frame a law on the basis of it that would not sound like an invitation to homicide? It does, however, appear to demonstrate that the absolute value that Rava seems to have in mind may be counterbalanced with a dissimilar view in the name of a distinguished Rabbi of a previous generation.

In any event, Rava does counsel the man to let himself be killed rather than commit murder, whether or nor Rava's position that one life is not to be valued

above another holds good across the board. With this in mind, let us move to the examination of the fellow's options just as we examined the options available to the betrothed *naᶜarah* under attack by the *rodef.*

With the addition of a third (and possibly a fourth?) character, the relationships become more complex. We have the village headman (A) who orders B to kill C, and if B does not kill C then A will kill B. We have a "double *rodef*" situation. Mr. A is a pursuer of B and B, a pursuer of C. The options for B appear as follows. First he can acquiesce to the demand. Thus he becomes a grievous sinner though it is hardly likely that B would ever have faced a capital charge under Jewish law. For one thing, the ancient court of competent jurisdiction no longer existed at this time, and there is no indication that exigency procedure on the model of R. Eliezer b. Ya'akov, *b. Sanh.* 46a (and *b. Yebam.* 90b) was in use in Rava's time. Indeed we do not know the end of the story at all. The whole point of the passage is Rava's remonstrance with the poor fellow whose fate is not related. In any event, under the first option, C is dead; only A benefits. Second, B may resist A and perhaps enlist the aid of C or others in the endeavor. A is a *rodef* with respect to B and the *rodef* as we have seen should be resisted. This option would relieve B's situation and save C. Third, he could flee, an option suggested by Maimonides. After all, he apparently did have time to consult with Rava so perhaps in the dark of the night he could have fled beyond the authority of the headman. This option keeps him from sin, but it may not really be in C's best interest. A may simply sign up a new hit man. Fourth, he could get word to the man he was ordered to kill and urge him to flee; indeed both men could take to their heels. Under this option A would be deprived of both B and C who would be alive and well.

If neither resistance nor flight nor informing the victim were feasible, B could carry out Rava's advice and become a martyr. He would be unstained by sin, but arguably C's life is still in danger. C was A's ultimate target and B was merely the instrument of A's viciousness. B does not hold his blood redder than anyone else's but his sacrifice has only brought sure benefit, so to speak, to himself. One would think that resistance to the tyrant were always the best course even if it were the most dangerous of the options. By standing against A, B saves two lives. The option of flight also has this overall benefit. The Talmud does not suggest whether or not B's (or B's and C's) circumstances were such that running away is a good option, but Maimonides appears to think it is at least possible. At any rate, when people are faced with mortal danger other considerations have a way of becoming less significant for them. The Talmud itself does not even broach the possibility of the other options proposed here. The seventeenth century authority Jacob Reischer approves flight as a means of avoiding persecution and death despite some possible arguments to the contrary even though such flight means leaving others to their unfortunate fate (See

Reischer's collection of responsa *Ḥawwoth Yaʾir*, Offenbach, 1719, no. 106).

The idea that a person should suffer death rather than commit murder, even when commanded to do so on pain of his or her own death, appears quite reasonable and logical given the traditional Jewish abhorrence of unmitigated murder, but Rava's advice was certainly not the only advice possible nor was it necessarily the best advice under the circumstances. The story (if indeed it is a record of an actual incident) seems to be a means of emphasizing the extreme demand of death before dishonor. Perhaps we have here an example of rhetoric getting the better of reason. We shall presently return to this point and suggest why rhetoric may have carried the day.

The scenario of A's threat to harm B if B does not harm C is read back into the rape case, and a whole new situation is introduced, one which the two other versions of the rape case with the verbs in the feminine do not seem to contemplate. We have another A-B-C situation, but this time there is probably no time to consult with an adviser. A threatens B: violate C, who is forbidden to you under the rules of *gilui ʿarayoth* or you, B, will die. This scenario is apparently based on the masculine inflection of the verbs in the *Yoma* version of the text: he shall be killed and he shall not transgress. From the case of the murderer we are to learn something about "him," not her. This cannot mean that the rapist himself is to be confronted and killed if necessary; that point has already been made plain. Since the potential murderer is under threat, one reads that state of affairs into the case of the *naʿarah*. The *tosafot* to the *Yoma* text, as we have already noted, make it clear that the potential murderer or rapist is forced to perform an overt act in commission of the transgression, a matter of great significance in the recapitulation of the rule that appears in the *Yoreh Deʿah* material. Thus if the man were already sexually aroused (a matter that will presently receive some comment) and his tormentors simply thrust him while in that condition upon the body of the forbidden female, that man need not die since he performed no overt act. The general pattern of events is not at all far fetched; the Talmud, *b. Yebam.* 53b, speaks of idolators who force a man to have sex with a woman; in that talmudic example, the deceased brother's wife, the *yebamah*, but the idea of sex under compulsion may be imported into any number of other encounters.

So the situation is that non-Jewish bullies seize a man and demand that, for their amusement, he have sex with a woman forbidden to him under the heading of *gilui ʿarayoth*. In that case martyrdom is the only approved option for him. Presumably resistance is tantamount to suicide although it beggars the imagination that the man could remain sexually aroused while the tormentors manhandle him onto the body of the helpless woman. For purposes of the law, the Talmud places sexual arousal in the category of conscious acts. The fellow would therefore become in some sense complicit if he were at all in a condition to perform to the satisfaction of his (and her) tormentors.

When the reasoning of the potential murderer's case is read into the *naʿarah*'s

case, one might imagine that some of the same options available to the potential murderer might be similarly available to the man ordered to engage in forbidden sex on pain of death for noncompliance. That is simply not the case. If he got very lucky and were very brave he might take on one assailant, but the odds are clearly against him. Flight is hardly an option and if he did flee he would be abandoning the woman to her fate. His options are severely limited and her options are reduced to the vanishing point. Absent some means of her committing suicide, she would be raped – but of course she would not have committed any punishable offense according to Deuteronomy. Clearly she could not cry out, there is no one to save her. Given circumstance of extreme duress, a rabbinical court would hardly be inclined to declare a woman or girl in any degree complicit in her violation. The attacker (or attackers) is bent on ugly business.

In sum, whether the verbs are inflected in the masculine or the feminine, the tradition reads the reasoning in the matter of homicide into the matter of rape, and in all situations provides an argument to relieve the threatened parties of culpability even though the argument may defy any rational assessment of the circumstances. With the verbs in the feminine, the *naᶜarah* should die before transgressing, but her presumed passivity and the duress factor relieve her from responsibility under the law. Moreover, despite the clear talmudic exhortation, she need not sacrifice her life at all according to the later legal tradition. With the verbs in the masculine, the man under mortal threat bears no responsibility for the act because he was also under duress, though how he could manage sexual activity in that situation is extremely difficult to imagine. There is no suggestion that one or the other reading is the correct one, nor is there any attempt to present one standard reading for all three talmudic passages. The differences in the texts allowed the medieval authorities scope for extensive commentary.

Conclusion

Both the Talmud and post-talmudic halakhic literature reflect the fact that the concept of death before dishonor is well enshrined in both the legal (and moral) system of the Jewish tradition. The concept requires only three words in Hebrew: *ye(te)hareg wᶜal yaᶜ(taᶜ)avor.* It has the seductive power of a motto – something that could be uttered to give encouragement, that could steel weakening spirits to face a tragic fate. It seems moreover something more than an ordinary provision of the law. It appears to rise to the level of a rallying cry for the beleaguered. Yet when one looks at the logic of this extreme demand in the context of real life situations, that logic begins to exhibit some notable flaws.

The transposition of the case of potential homicide into the case of the betrothed *naᶜarah* does have a discordant element. Both the potential murderer and the *naᶜarah* under immediate attack are victims, but the nature of their victimizations surely differs. The man is in no immediate danger; she is. His

problem arises when he refuses or fails to follow orders. The opinion that the *naʿarah* need not after all sacrifice her life may be a tacit recognition that she is a helpless victim who must simply lie there and take whatever punishment the rapist cared to inflict, while the man – under orders to rape or murder on pain of death, has options in the case of murder but is doubtless rendered incapable of action by reason of duress in rape. Collapsing the two cases into one makes for rhetorical symmetry, but it does so without a serious look at the rather obvious realities of the situations contemplated. Why then does the Talmud join them into a "logical unit"? Probably because the Deuteronomy passage which has figured so prominently in the talmudic discussion places them together. Perhaps that biblical combination established a pattern in rabbinic legal thinking. After all, rape and murder are two very serious offenses. When, however, in the course of time, the Rabbis sought to establish a more substantial connection between them, and used Rava's story as the matrix for the connection, the compelling motto – die before doing the dire deed – lost its clarity. The logic is awkward at best. But what Scripture put together, no future generation felt adequate to put asunder, or to treat the matter as a presentation of separate offenses.

Further, the full text of the rule gives permission to break other rules, not the three standard absolute prohibitions of course, when one is under a mortal threat, but we have seen that this permissive stance is limited to times when no specific anti-Jewish activity is present, when the act is in "private," and when its intent is non-conversionary. That is, the death threat is issued to make the Jewish victim do something for the private amusement or benefit or evil purposes of the bully. Clearly the circumstances under which a Jew may face mortal threat to perform some violation of his or her religious duties and requirements are far more numerous when there is general and sanctioned anti-Jewish activity or where the intent of the bully, who knows the Jewish identity of his victim, is precisely to make the Jew do some thing forbidden by Judaism. Even where the situation might be such that the Jew could properly choose transgression rather than martyrdom, any permission thus to save one's life which focuses only on the fate of the person under immediate threat may have dire consequences for some Jewish third party or parties, because the bully may ask the Jew to injure a fellow Jew, but not to kill him (or to rape her).

The clear, logical, and practical connection between the mandate of martyrdom and the avoidance of the three grave sins emerges best in the case of idolatry where only two people are involved. A demands that B bow down to the idol on pain of death. B refuses. A kills B. There, the martyrdom ends the matter. B has committed no sin; there is death before dishonor. (The text as we have it does not speak directly to the possibility that A says to B, bow down to the idol or I shall kill C. This is truly a dilemma. B would apparently have to become a

martyr; and obviously B's death would leave B himself sinless. Yet what of C: B did not bow, so C will presumably die.) With respect to *gilui ʿarayoth* and homicide there is either a mixed message or the possibility of options not explored by the legal tradition. The logical and practical connection between the demand and the reality is not so easy to trace; certainly the medieval legal commentators did not allow the plain meaning of the text, with its unequivocal message, to stand as it was. The direct relation between martyrdom as the best or only means of avoiding grave sins has become quite blurred.

This inquiry began with the observation that extreme demands portend extreme consequences. The demand of martyrdom with its obviously extreme consequences should therefore have a clear, well understood clarity of purpose and indeed be the last resort for a person under threat of death. But what reason is there for martyrdom if there are better ways to achieve the purpose of avoiding the transgression? And why call for martyrdom only to declare in the next breath that – in the case of the *naʿarah* – she need not sacrifice herself? And why allow the commission of all sorts of other transgressions (under circumstances which have been detailed) in order to evade a threat of death for non-compliance without apparent regard to the effect those other transgressions may have on innocent third parties? The rhetoric has outstripped the reason; it has become more compelling than it should have become. Even though there is a reassertion of reason when the medieval sages reechoing the ancient deuteronomic rule reject criminal guilt for the forcibly raped *naʿarah* and suggest the option of flight for the man under a mortal threat to force him to commit homicide, the ancient versions of the rule on death before dishonor appear to stand on their own as mottoes or moral exhortations.

Before any extreme demand is framed, however, there should be a careful consideration of all possible alternatives to it. Rhetoric should not stand in for reason nor for value judgments in this or any other serious matter involving human interaction. No one should ever set a standard for others to follow that is so high that it loses touch with the realities and options actually faced by real men and women who must lead real lives. Finally, the basic rule – one may transgress any rule, except homicide, *gilui ʿarayoth* and idolatry, is so severely compromised by the talmudic limitations on its scope that it is in effect a mandate for martyrdom rather than a practical safeguard for human life in peril. The value of *qiddush hashem* seems to tower far above the value of human life.

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Protest or Pedagogy?

Trivial Sin and Divine Justice in Rabbinic Narrative

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This study examines two classical rabbinic stories in which a person's premature death is attributed to an apparently trivial sin. One line of scholarly response views them as addressing challenges to accounts of divine justice, such that the appeal to the small sin is a complex attempt at theodicy. Others interpret the stories as primarily about the importance of apparently minor transgressions. This analysis centers on the reception of the stories by rabbinic redactors – five recensions of one story and three of the other – and sets out two methodological innovations. First, divine justice is examined not only as a concept, but as an interrelated set of concepts, tropes, and understandings of human action that can be employed for various purposes. A broad survey of this discourse provides an intellectual context for the stories at hand. Second, integrating Jeffrey Rubenstein's approach to talmudic narratives with Menahem Kister's focus on the metamorphosis of traditions, the study identifies multiple settings of meaning for each story conditioned by literary structure, anthologizing, exegesis, and expansion. The study concludes that the dominant tendency is to bring both stories into the realm of ethical teaching, though many details reveal that conflicts remain and the resolution is not complete.

A story appearing in a number of rabbinic sources tells of two Sages who are about to be executed. One is upset and wants to know the reason for his death. The issue is theological: assuming that the real agent is God rather than the Romans, he asks what transgression in the past has caused divine retribution in the present. The two Sages discuss this point and decide that a small, apparently trivial sin such as making someone wait for a decision, or a moment of arrogance, is the act for which God now punishes them. Another story, also in several collections, tells of a righteous and studious man who dies at a young age. His wife demands an explanation for the death, given that the study of Torah is held to bring long life. No one in the synagogues or study houses can give a response. Elijah arrives on the scene, inquires concerning her relations with her spouse, and concludes that physical contact during the latter days of her menstrual impurity is the reason for God's punishment of death.

What is the point of these stories? One line of scholarly response sees them as dealing with crises in, or challenges to, rabbinic accounts of divine justice. The appeal to the small sin, then, is a complex or problematic attempt at theodicy.

Ephraim E. Urbach frames this point in strong historicist terms, claiming that the story of the two martyrs can be situated in relation to the Hadrianic persecutions and offers "the stereotyped explanation that views the tortures and sufferings of the (ten) martyrs as punishment for miniscule transgressions. . . ."[1] David Kraemer examines the same story as it appears in the *Mekhilta* amidst his discussion of halakhic *midrashim*, which he dates roughly to the late third century C.E. He argues that the text continues a theme that he sees broadly in these collections, in which suffering and death are the consequences of improper action, and this story emphasizes ". . . that it is virtually impossible to make a reasonable argument for any direct correspondence between the gravity of the sin and the severity of the punishment (suffering)." Kraemer highlights that the passage calls for an extreme level of righteousness among the Sages, justifying even extreme punishment for minor flaws. This justification is presented as comforting, for despite its extreme standards, "it allows one to avoid the conclusion that God permits suffering for no reason at all."[2] Friedrich Avemarie examines the motif of the martyrdom attributed to a minor sin and argues that these stories aim to preserve both the Rabbi's innocence and an account of divine justice by having the Sage's guilt be as minimal as possible. The result is a conventional embrace of theodicy in the foreground with a latent sense of absurdity or aporia.[3] Finally, Zachary Braiterman discusses both the stories of the two martyrs and the widow, arguing that the narratives "indicate how far the rabbis stretch the motif of retribution. . . . Only seemingly far-fetched reasons finally explain God's decree," and the causal relation between sin and suffering is "strained to its limit."[4]

A number of scholars, though, interpret the stories not as primarily about theodicy and the limits of divine justice, but about the importance of the

1 See Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams (Cambridge, Mass.: Harvard Univ. Press, 1979) 442; he cites from the *Mekhilta deRabbi Ishmael* and then *ʾAbot R. Nat.* A. Another strongly historicist interpretation is that of Adolph Büchler, *Studies in Sin and Atonement in the Rabbinic Literature of the First Century* (London: Oxford Univ. Press, 1928; repr.: New York: KiAv, 1967) 189–203.

2 David Kraemer, *Responses to Suffering in Classical Rabbinic Literature* (New York: Oxford Univ. Press, 1995) 86–87.

3 Friedrich Avemarie, "Aporien der Theodizee: Zu einem Schlüsselthema früher rabbinischer Märtyrererzählungen," *JSJ* 34 (2003) 199–215, esp. 204–10. Note also the brief comment by Avemarie and Jan Willem van Henten, who state concerning the story of R. Ishmael and R. Simeon, ". . . their martyrdom turns into a case of theodicy as well as into a demonstration of the high morality of these rabbis, who cannot be accused of any graver transgression." Jan Willem van Henten and Friedrich Avemarie, *Martyrdom and Noble Death: Selected Texts from Graeco-Roman, Jewish, and Christian Antiquity* (London: Routledge, 2002) 140–41.

4 Zachary Braiterman, *(God) After Auschwitz: Tradition and Change in Post-Holocaust Jewish Thought* (Princeton: Princeton Univ. Press, 1998) 41.

apparently minor transgressions. Judah Goldin, in examining the martyrdom stories as they appear in *ʾAbot deRabbi Nathan*, argues that their significance should be understood in relation to the maxim that they comment upon: "The sword comes into the world because of the delay of justice, perversion of justice, and because of those who teach the Torah not in accord with the law [*halakhah*] (*ʾAbot* 5:8). He argues that the two versions of *ʾAbot R. Nat.* differ on this point, with version A emphasizing proper teaching of Torah, and version B highlighting the problem of delay in justice.[5] Menahem Kister, through a careful examination of the story in all late ancient variants, and with strong attention to the biblical prooftext, argues that in both versions the story should be understood in relation to the concern with delay.[6] Raʿanan Abusch (Boustan) offers another approach, seeing the trivial sin or "peccadillo motif" in martyrdom stories as "a strategy for emphasizing the elevated status of the rabbinic martyrs."[7] Regarding the widow and her protest, Judith Baskin characterizes the story as "a cautionary tale of a scholar who dies young," and both she and Judith Hauptman analyze this story in relation to rabbinic menstrual laws and ideals for practice.[8] In these analyses, the challenges concerning divine justice are not primary, but rather the central point is a teaching that can be understood through the exegetical context and conclusion.

How, then, should we respond to these complex stories and their diverse scholarly interpretations? My move is to direct this question toward the rabbinic redactors: how did they receive, adapt, and develop these stories and specifically the relation between tragedy and trivial sin? In this article I examine various recensions of these two narratives in late ancient rabbinic sources with the goal of addressing two broad issues.[9] The first concerns rabbinic discourses of divine justice. I believe that discussions of theodicy and related topics in rabbinic sources can be aided by a nuanced account of how and why Rabbis appeal to God's reward and punishment. I aim to set out conceptual tools for examining such appeals and show that these tools help us under-

5 Judah Goldin, "The Two Versions of Abot de Rabbi Nathan," *HUCA* 19 (1945–46) 97–120, esp. 112–15.

6 Menahem Kister, "Metamorphoses of Aggadic Traditions" (Heb.), *Tarbiz* 60 (1991) 179–224, esp. 213–20.

7 Raʿanan Abusch (Boustan), *From Martyr to Mystic: The Story of the Ten Martyrs, Hekhalot Rabbati, and the Making of "Merkavah Mysticism"* (Ann Arbor, Mich.: UMI Diss. Services, 2004).

8 Judith Baskin, *Midrashic Women: Formations of the Feminine in Rabbinic Literature* (Hanover: Brandeis Univ. Press, 2002) 25; Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder, Colo.: Westview Press, 1998) 158, 174 n. 39.

9 I will not attempt to address every aspect of the narratives, but specifically the ones related to the issues that I highlight. In many respects my article and the treatment of the stories in Abusch, *From Martyr to Mystic* complement each other, in that each focuses upon aspects of the stories that the other does not.

stand these difficult cases. The second concerns the relation of a story to its literary context. Jeffrey Rubenstein's exemplary book *Talmudic Stories* combines literary, redaction-, and source-criticism to argue persuasively that the meanings of talmudic narratives are conditioned by their broader literary contexts, particularly as exegesis of the Mishnah. The narratives I examine, however, push us to consider that multiple axes of meaning can exist for a given story in a given text, and they may not be in harmony. I will exemplify this point by attending, for each case, to its literary structure as an independent unit, the ways it is anthologized with other materials, its exegetical contexts, and the distinct editorial shaping and terminology of the particular recension. In many respects I see this aspect of my method as drawing together Rubenstein's approach to narratives with Menahem Kister's detailed study of the "metamorphosis" of rabbinic traditions, and then developing that combination in light of my own observations.[10]

My argument is as follows. These rabbinic stories are distinctive but not unique in combining two elements that have strong resonances with opposite extremes of rabbinic thinking regarding reward and punishment: a deep questioning of the nature if not existence of divine justice, and a resolution in terms of an apparently minor transgression. The first considers events that reveal the limits of rabbinic abilities to interpret their world in terms of divine justice, such as the suffering of righteous individuals or the destruction of Jerusalem in 70 C.E. and persecutions following the Bar Kokhba revolt. The second is a pedagogical motif that is prevalent in rabbinic ethical literature: Sages uphold small virtues and warn against small vices for their students as religious elites, employing dramatic claims of drastic consequences. This motif implies a very strong confidence in God's justice, not a struggle with theodicy. This combination means that the stories could be shaped in one or both of these directions, depending on the (conscious or unconscious) interests of the rabbinic editors. The shaping could be done through a variety of means: how editors anthologize the story with other stories, how they employ the story in their exegesis of biblical and earlier rabbinic sources, and how they add to and modify it. These emphases are not always coherent, and there may be tensions among different elements. The dominant tendency in the reception of both stories, in all texts, is to bring the narratives into the realm of ethical teaching by emphasizing the resolution in terms of the trivial sin. However, along with this tendency, certain details reveal that conflicts remain and the stories' moments of protest are not entirely covered over.

10 Jeffrey Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins Press, 1999), and my review of this book in *HS* 42 (2001) 382–85; Kister, "Metamorphoses of Aggadic Traditions" and *Studies in Abot de-Rabbi Nathan: Text, Redaction, and Interpretation* (Heb.) (Jerusalem: The Hebrew Univ. Department of Talmud, 1998) 188–91.

Rabbinic Discourses of Divine Justice

My discussion of divine justice in this section is not meant to be comprehensive. Rather, I aim to set out a vocabulary and set of questions for examining cases in which Rabbis employ the concepts, tropes, and understanding of causality related to divine justice. These observations emerge from considering one set of texts, *m.ʾAbot* and *ʾAbot deRabbi Nathan*, in which this imagery is highly prominent. These collections have complex histories of development, and the final redaction of *ʾAbot Rabbi Nathan* has been shown to be post-talmudic, though many of the teachings have parallels in earlier sources, and the themes have a much broader resonance. There already has been important work done on the ways that rabbinic discourses of divine justice have varied in relation to history, geography, and specific texts, and I hope that the tools I set out here can help refine and extend our inquiry into those questions. My primary goal here, though, is to draw upon this scholarly vocabulary to analyze two stories as they appear in a number of different sources.[11]

In rabbinic literature divine justice is not only a concept (*middat hadin*) but also a cluster of interrelated legal and monetary tropes: God as a king and judge, angels as attorneys or collectors, humans as defendants who may be innocent or guilty, and also God as a storekeeper or employer, and humans as creditors or servants who may deal in terms of credit or direct payment. Such tropes appear both in evocative narratives and maxims, and more subtly in technical terminology drawn from roots such as "judge" (*dyn*), "guilt" (*ḥwb*), "decree" (*gzr*), "punish" (*ʿnś* and *prʿ*), "merit" (*zekhut*, from *zkh*), and "righteous" (*ṣaddiq*, from *ṣdq*).[12] These images are intertwined with a way of conceptualizing causality and human action. A human act is not a discrete event, but part of a process extended over an undefined period of time in which a person acts, God responds, and, in between, there are various possibilities for intervening in

11 This section summarizes and extends parts of Schofer, *The Making of a Sage: A Study in Rabbinic Ethics* (Madison, Wis.: Univ. of Wisconsin Press, 2005) 125–48. Also highly relevant here are Kraemer, *Responses to Suffering* and Yaakov Elman, "The Suffering of the Righteous in Palestinian and Babylonian Sources," *JQR* 80 (1990) 315–39 and "Righteousness as Its Own Reward: An Inquiry into the Theologies of the Stam," *PAAJR* 57 (1990–91) 35–68. Regarding the dating of these texts, Kister argues at length for the post-talmudic dating of *ʾAbot deRabbi Nathan* in *Studies*, while Amram Tropper concludes that the editing of *ʾAbot* occurred during the third century, in *Wisdom, Politics, and Historiography: Tractate Avot in the Context of the Graeco-Roman Near East* (Oxford: Oxford Univ. Press, 2004).

12 Here I draw on the notion of "metaphoric systematicity" articulated by George Lakoff and Mark Johnson in *Metaphors We Live By* (Chicago: Univ. of Chicago Press, 1980); also, George Lakoff, *Women, Fire, and Dangerous Things: What Categories Reveal about the Mind* (Chicago: Univ. of Chicago Press, 1987). However, I do not follow their larger claims linked with cognitive science. For an extended discussion of tropes in rabbinic ethics, see Schofer, *The Making of a Sage*, 57–66.

the divine judiciary process through petitionary prayer, repentance, and ritual atonement. In this account human activity is given immense significance, because a given act reverberates through divine accounting and affects the future conditions for oneself, others, and the cosmos.

Rabbis employ the tropes and causality of divine reward and punishment in at least three ways that are relevant for this study. First, a theology of divine justice can be understood as being a broad trope of order – an interrelated set of images and concepts that envision a world in which God's presence insures a stable and just accounting. Regardless of appearances to the contrary, ultimately the good are rewarded and the bad punished.[13] Second, a theology of justice can function as a hermeneutical framework for understanding events in the world. When a given event occurs, a proper rabbinic question is – what action in the past generated this result? Third, divine justice is often the centerpoint of rabbinic pedagogical discourse, appealing to self-interested desires and fears by promising rewards for right action and character, and punishment for wrong. The narratives at hand all present characters who face some event in their present state that leads them to question or challenge the notion that the world is just and ordered, and they inquire into the past to figure out the causes of the present events. The resolution of the stories in terms of minor transgressions, moreover, is also a way of teaching rabbinic values.

Rabbinic thinking about God's actions is highly flexible. The basic process is that God rewards good action and punishes bad, but through various distinctions – such as images of credit and deferred interest, and the contrast between this world and the world to come – this apparently simple process can be applied in a wide range of ways. The person who performs a given action may or may not be the person who receives the consequences. An individual may experience the consequences of a group's action, the group of an individual's, and divine response may be deferred to future generations or after death (and, along with such passages, there are others in biblical and

13 On the notion of "order," and important reservations about its use, see Lennart Boström, *God of the Sages* (Stockholm: Almqvist and Wiksell International, 1990) 136–37; see nn. 205–9 for references to previous scholarship and debates concerning the term. Such attempts to construct through theology or ontology an ordered and just world appear in many religious traditions, not only in Judaism and others that are influenced by the Hebrew Bible: one notable example is the widespread notion of Karma in south and southeast Asia. See Gannath Obeyesekere, *Imagining Karma: Ethical Transformation in Amerindian, Buddhist, and Greek Rebirth* (Berkeley: Univ. of California Press, 2002); Wendy Doniger O'Flaherty, ed., *Karma and Rebirth in Classical Indian Traditions* (Berkeley: Univ. of California Press, 1980); Charles F. Keyes and E. Valentine Daniel, eds., *Karma: An Anthropological Inquiry* (Berkeley: Univ. of California Press, 1983); also Eliot S. Deutsch, "Karma as a 'Convenient Fiction' in the *Advaita Vedānta*," *Philosophy East and West* 15 (1965) 3–12. On this point in relation to the broader interrelation of cosmology and ethics, see F. Reynolds and J. Schofer, "Cosmology," in William Schweiker, ed., *A Companion to Religious Ethics* (Oxford: Blackwell, 2004).

rabbinic literature that reject such possibilities, claiming that individuals receive the consequences only of their own actions). The formal relation between act and result also varies tremendously. Despite the important rabbinic claim that divine justice is "measure for measure" (*middah keneged middah*),[14] accounts of divine justice present numerous relations between act and result. Correspondence or lack thereof may appear in the nature of the two events, the literary expression in which they are formulated, or both. Correspondence may admit of degrees, with sometimes an exact fit between act and response, sometimes a more loose connection, and sometimes an explicit disjunction.[15]

This latter set of points is particularly important for the stories I examine. Here I present examples to illustrate some of the variations and their rhetorical significance. One well-known example of strong correspondence between act and result, which also illustrates the hermeneutical role of rabbinic claims concerning causality, is a brief anecdote about Hillel:

> He saw a skull that floated on the surface of the water and said to it, "Since you drowned others, they drowned you. And those who drowned you, others will drown" (*ʾAbot R. Nat.* A, chap. 12; *ʾAbot R. Nat.* B, chap. 27; *ʾAbot* 2:6).[16]

This is a case of rabbinic thinking concerning divine justice that makes no explicit mention of God. We find an observation about causality in the world, and the theology must be inferred. Hillel has no information concerning the identity of the skull, but he claims that the person has been killed. Then he interprets, in a manner that seems spontaneous and ad hoc, the significance

14 On the concept of "measure for measure," see *m.Soṭaḥ* 1:7–9; Ishay Rosen-Zevi, "The Sin of Concealment of the Suspected Adulteress" (Heb.), *Tarbiz* 70 (2001) 367–401. Urbach, *Sages*, 438–40 and notes, esp. p. 881 n. 68; Max Kadushin, *The Theology of Seder Eliahu: A Study in Organic Thinking* (New York: Bloch, 1932) 177–78. For the broader resonance of these issues, see Robert Yelle, "Rhetorics of Law and Ritual: A Semiotic Comparison of the Law of Talion and Sympathetic Magic," *JAAR* 69 (2001) 627–47. On the biblical law of *talion*, a classic study is Bernard Jackson, "The Problem of Exodus 21:22–5 (*Ius Talionis*)," in *Essays in Jewish and Comparative Legal History* (Leiden: Brill, 1975) 75–107, and *Studies in the Semiotics of Biblical Law* (Sheffield: Sheffield Academic Press, 2000); Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Oxford Univ. Press, 1985) 92–93 and notes.

15 My analysis of these points draws upon Patrick D. Miller, *Sin and Judgment in the Prophets: A Stylistic and Theological Analysis* (Chico, Calif.: Scholars Press, 1982), esp. p. 1 on content and style, pp. 105–10 on exact or "talionic" correspondence, and generally pp. 111–19.

16 See Solomon Schechter and Menahem Kister, *Avoth de-Rabbi Nathan: Solomon Schechter Edition* (New York: Jewish Theological Seminary, 1997) 55–56. Following Goldin, I translate the last word in accord with the Oxford manuscript; *The Fathers According to Rabbi Nathan* (New Haven: Yale Univ. Press, 1983) 190 n. 45. Kister discusses all the variants in *Studies*, 125–26. *ʾAbot R. Nat.* B, chap. 27 (ed. Schechter, 56) and *ʾAbot* 2:6 have "will be drowned" in place of "others will drown." In *ʾAbot R. Nat.* B the character is R. Joshua.

of the presumed murder. He does so through asserting an exact correspondence between the consequence (being killed) and an assumed prior act (the person had killed someone else). This correspondence is reinforced stylistically by repetition of the verbal stem "to drown" or "to make float" (from the root *ṭwp*), describing both the act and the consequence.[17]

Style and content may relate in numerous ways. While the above passage shows close correspondence in content and in literary style, a maxim of R. Akiva presents a significant disjunction in degree between act and consequence, yet stylistic similarity in the words employed:

> Rabbi Akiva says, "Anyone who takes a *peruṭah* from the public fund when he is not in need (*ʾeno ṣarik*), will not pass (*niptar*) from the world until he is in need (*yiṣṭarek*) [of charity] from his fellow" (*ʾAbot R. Nat.* A, chap. 3; ed. Schechter, 15).

This passage builds upon one in the Mishnah that presents an act of greed (taking money when not in need) having major consequences (being in significant financial need of others).[18] Here, the transgression is specified as being particularly minor: by naming a *peruṭah*, R. Akiva specifies an almost insignificant sum of money. This detail intensifies the difference in degree between act and consequence; the punishment is far greater than the crime. At the level of the verbal rhetoric used to express this relation, however, the punishment paronomastically corresponds to the action. The offender "will not depart (*niptar*) from the world until he is in need" because of taking a "coin" – a *peruṭah*. Also, he will be in need (*yiṣṭarek*) of support because he has taken money that he does

17 See Yonah Fränkel, *The Ways of the Aggadah and the Midrash* (Heb.) (Givatayim: Yad Le-Talmud, 1991) 402–3. The story has received much attention by both modern scholars and traditional commentators. See Judah Goldin, *Studies in Midrash and Related Literature*, eds. Barry Eichler and Jeffrey Tigay (Philadelphia: The Jewish Publication Society, 1988) 4–6; Saul Lieberman, *Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary of America, 1994) 137 n. 87. On the relation between worldly and divine causality, a key statement concerning biblical sources is Klaus Koch, "Gibt es ein Vergeltungsdogma im Alten Testament?" in K. Koch, ed., *Um das Prinzip der Vergeltung in Religion und Recht des Alten Testaments* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1972) 130–80. An abridged English translation is Klaus Koch, "Is There a Doctrine of Retribution in the Old Testament?" in James Crenshaw, ed., *Theodicy in the Old Testament* (Philadelphia: Fortress Press, 1983) 57–87. Koch's arguments have also been criticized by Boström as well as Patrick Miller and Michael Fox; Boström, *The God of the Sages*, 90–113 (Boström also discusses the comparison between Israelite understandings of consequences and Egyptian conceptions of *maʾat* on 94–96); Miller, *Sin and Judgment in the Prophets*, 121–39; Fox, *A Time To Tear Down and a Time To Build Up: A Rereading of Ecclesiastes* (Grand Rapids, Mich.: William B. Eerdmans Publishing, 1999) 53–55 and generally 51–70.

18 See *m.Peʾah* 8:9; also *b.Ketub.* 68a.

not need (*ʾeno ṣarik*). Content and style, then, are layered in a complex manner such that each both reinforces and disrupts the other.

The rhetorical strategy of portraying a blatant non-correspondence of degree between act and result is fairly common in rabbinic literature, and there is even technical terminology to signal such moves.[19] Often an apparently minor transgression brings a strikingly harsh punishment, but there are also cases of small positive states and acts bringing great rewards. Such passages rhetorically emphasize the importance of apparently small dimensions of life. They may also convey that, at least for the great Sages, every action and inner state is spiritually and ethically significant. The life of a Sage is fragile, and even the smallest slip in attentiveness can mean disaster. One example of such a slip, which is particularly important for this paper since it concerns the death of an aspiring Sage, is again attributed to R. Akiva:

> He would say, Why do students of the Sages die when they are young? Not because they are adulterers, and not because they steal, but rather because they break from the words of Torah and occupy themselves with words of conversation – and moreover, because they do not begin again at the place where they broke off (*ʾAbot R. Nat.* A, chap. 26; also see *ʾAbot R. Nat.* B, chap. 35; *ʾAbot R. Nat.* A, chap. 29; ed. Schechter, 81, 82, 88).[20]

If a person who strives to become a Sage dies when he is young, what is the cause? We will see below several answers to this question. In this teaching, R. Akiva asserts that failure in concentration – turning from the distinct, sacred speech of the study house to that of everyday life – will bring a divine punishment of death. The maxim appears to extend the view attributed to Hillel that those who do not study or serve the Sages are "guilty of death,"[21] to say that even

19 For examples, see Büchler, *Studies in Sin and Atonement*, 193–95. Often the phrase "Scripture accounts it to him as if . . ." marks a divine response that appears to be disproportionate to a human action – great reward for small or indirect good actions, and great punishment for small or indirect bad actions. The term "as if" (*keʾilu*) is crucial, for it indicates that the minor act simulates or substitutes for the major. For a person receiving credit for causing another to do something, see *ʾAbot R. Nat.* A, chap. 23; ed. Schechter, 78. For examples of negative cases, see *ʾAbot R. Nat.* A, chap. 26; *ʾAbot R. Nat.* A, chap. 30; ed. Schechter, 83 and 89. The phrase "as if" (*keʾilu*) often marks simulation or substitution. See Michael Fishbane, *The Kiss of God: Spiritual and Mystical Death in Judaism* (Seattle: Univ. of Washington Press, 1994) 87–124; *The Exegetical Imagination: On Jewish Thought and Theology* (Cambridge, Mass: Harvard Univ. Press, 1998) 123–35. For a case of "Scripture accounts it to him as if . . ." specifically indicating a substitution for sacrificial acts, see *ʾAbot R. Nat.* A, chap. 4; ed. Schechter, 18.

20 The location of this teaching varies in the manuscripts of *ʾAbot deRabbi Nathan*. See Schechter's comments, 82 n. 12 and 87 n. 1.

21 See *ʾAbot* 1:13; *ʾAbot R. Nat.* A, chap. 12; *ʾAbot R. Nat.* B, chap. 27 (ed. Schechter, 48, 56).

a brief loss of intellectual focus is worse than major sins and the consequence is (figuratively speaking?) death.[22]

Note that R. Akiva first suggests two legally prohibited actions, adultery and theft, and then turns to the apparently minor transgression. This specific juxtaposition of paradigmatic, major sins and apparently minor ones is not unusual. For example, Rabbis often employ strong hyperbole to convey the dangers of "malicious speech" (*lašon hara*^{c}), and in one case a numerical catalogue cites the cardinal sins of idolatry, incest, and murder, only to place malicious speech as greater in transgression:

> Four acts for which the person who performs them will be punished in this world and in the world to come: idolatry, incest, and murder. Yet malicious speech (*lašon hara*^{c}) is greater than all of them (*ʾAbot R. Nat.* A, chap. 40; ed. Schechter, 120; also *t.Peʾah* 2:1).

Here we see the figurative, exhortative nature of rabbinic epigrams in stark terms. The anonymous statement lists the greatest sins of the rabbinic legal and moral world as a means of highlighting the dangers of improper speech.[23]

When considering a given case in which Rabbis discuss rewards and punishments, then, a key point to address is the rhetorical or pedagogical force of the passage. When R. Akiva is portrayed as asking, "Why do students of the Sages die young?" this is not posing a serious challenge regarding the existence or nature of divine justice. Rather, it is an ethical teaching that upholds scholastic virtues

22 Other passages threaten punishment for not consulting the Sages (*ʾAbot R. Nat.* A, chap. 12; *ʾAbot R. Nat.* B, chap. 27, ed. Schechter, 56–57) and for teaching improperly (*ʾAbot R. Nat.* A, chap. 11; *ʾAbot R. Nat.* B, chap. 22; ed. Schechter, 47–48; *ʾAbot* 1:11). Note also *m.ʾAbot* 3:7, in which distraction from study is "accounted" as worthy of death.

23 On these transgressions, see *m.Sanh.* 7:4 and 9:1. One teaching interprets verses of priestly material in the Bible to argue that the three sins of idolatry, incest, and murder are distinctive in being labeled as *ṭumʾot* – causes of impurity (see *Sifra* to Lev 16:16, which draws upon Lev 18:30, 20:3, and Num 35:30–34; also *b.Šeb.* 7b). A historically significant rabbinic ideal is that one must die rather than commit these sins: "For every transgression that is in the Torah, if a man is told, 'Transgress, and you will not be killed,' let him transgress and not be killed, except for idolatry (*ʿabodat kokhabim*), incest (*gilluy ʿarayot*), and murder (*šepikhut damim*)"; *b.Sanh.* 74a. See the discussion in Urbach, *Sages*, 351–53 and his notes discussing sources. The three sins appear in *b.Šabb.* 33a and similar teachings in *ʾAbot R. Nat.* A, chap. 38; *ʾAbot R. Nat.* B, chap. 41; ed. Schechter, 115; *m.ʾAbot* 5:9. The three major sins are often the basis of teachings that uphold some non-legal ideal. Several teachings link the cardinal sins with the men of Sodom through an atomistic exegesis of Gen 13:13 – "The men of Sodom are bad (*raʿim*) and sin (*ḥataʾim*) against the Lord a great deal" (Gen 13:13; cf. *ʾAbot R. Nat.* A, chap. 36; Schechter, 106). This *midrash*, and the three paradigmatic transgressions, are cited in commentary to Hillel's instruction to "love all people" (*ʾAbot R. Nat.* A, chap. 12; ed. Schechter, 52), and to R. Joshua's epigram concerning the danger of "hatred of people" (*ʾAbot R. Nat.* B, chap. 30; ed. Schechter, 64).

of intellectual focus, and it presumes a very strong affirmation of divine justice, embracing even apparently unfair standards as applied to religious elites. How, though, do Rabbis address the problem of theodicy?

Theodicy is a modern category that in many ways is too blunt for analyzing rabbinic sources, as it has been used to discuss several related but distinct issues. One is the "suffering of the righteous," which may be contrasted with the "ease of the wicked." A second is the relation between individual and communal punishment for transgression. Sometimes Rabbis describe divine punishment for the action of individuals as being inflicted upon all Jews (or all humans, in the case of Eden) without considering whether or not this is fair or just, and at other times they explicitly name and respond to this problem. In addition, there are passages in which Rabbis discuss God's anger, or petition for divine mercy and compassion, and then we have to examine the relation of this rhetoric to the discourse of justice – is it presuming that God is just, or dealing with the absence of justice, or some other variation?

Rabbinic literature rarely if ever explicitly states that God is not just, but a passage may present events of the world in such a way that divine justice appears to be incomprehensible from a human perspective. One such example is attributed to a first generation *amora* of Sepphoris:

> Rabbi Yannai says, We have not the capacity [to understand] "the ease of the wicked" and "the suffering of the righteous" (*m.ʾAbot* 4:15; also *ʾAbot R. Nat.* B, chap. 33; ed. Schechter, 73).

This maxim contrasts with sources that explain the "suffering of the righteous" in this world as being followed by reward in the world to come. Here, the Sage claims that this problem is beyond what he and his students can comprehend, so these are not topics to enter into during discussion.[24]

The struggle to understand God as both powerful and just is particularly salient in narratives describing martyrdom and destruction in relation to Roman power. Some accounts attempt to provide some kind of resolution in terms of God's ultimate justice. They may refer to sins in the past (sometimes specific, sometimes general) for which punishment now occurs, or they may promise reward for the persecuted and retribution upon the persecutors in the future. There are cases, however, where we find a notable absence of such solutions: a reader used to rabbinic accounts of divine justice would expect some kind of neat conclusion, yet there is none. For example, one account of the Roman destruction of the Temple in Jerusalem in 70 C.E. ends as follows:

24 Other passages convey similar points through narratives about Moses, such as *b.Menaḥ.* 29b; *Seder Eliahu Zuṭa* 6 (Meir Friedmann, ed., *Seder Eliahu Rabba and Seder Eliahu Zuṭa* and *Pseudo-Seder Eliahu Zuṭa* [Vienna: Achiasaf, 1904. Repr.; Jerusalem: Wahrmann Books, 1969] 183).

> At that moment Jerusalem was conquered, and Rabban Yohanan ben Zakkai sat, watched, and trembled in the manner that Eli sat and watched, as it is written, "Eli sat on his seat, watching on the side of the road, for his heart was trembling concerning the Ark of God" (1 Samuel 4:13). When Rabban Yohanan ben Zakkai heard that they destroyed Jerusalem and burned the Temple, he tore his clothes, and his students tore their clothes, and they wept, cried out, and mourned (*ʾAbot R. Nat.* A, chap. 4; ed. Schechter, 24).

We find no summation that speaks of Israel's guilt, no promises of ultimate reward in the world to come, and no judicial or monetary terminology. The disaster in Jerusalem is lamented but not made comprehensible. R. Yohanan ben Zakkai mourns in a manner that midrashically echoes Eli's actions when the Israelites were defeated by Philistines, the ark was captured, and Eli's sons were killed. In the passage that follows, we read that the Temple priests give up their privileged control over doors in the Temple, throwing their keys towards the heavens and declaring their unworthiness (but not transgression or debt). The only action by God in this scene is the silent rejection of the keys as they fall back to the ground.

Through this brief overview, then, we note several different concerns and purposes for which Rabbis employ the discourse of divine justice, and several ways that they may claim correspondence or disjunction between act and result. In treating divine justice as a discourse interrelated with a conception of action, I claim that there is an identifiable set of terms and images that underlie these rabbinic sources and many others, but each individual passage needs to be addressed independently for its conceptual and homiletic significance. Any scholarly claims of links or associations between teachings (whether viewing one as presuming another, or one as opposing another) have to be justified on a case-by-case basis.

With these texts and methodological points in mind, I now turn to stories about the two sages Ishmael and Simeon. I begin with the accounts that are in tannaitic sources (the *Tosefta* and *Mekhilta*). The others are in texts that are difficult to localize historically and geographically, but they all have late final redaction (*Semaḥot*, *ʾAbot deRabbi Nathan*, and *Seder Eliyahu*). I will treat them roughly in order of complexity, but I do not make claims concerning influence and dependence. There has been much important scholarship on this issue,[25] but my interest is different. I will offer a detailed analysis of each story, focusing in each case on how the tensions intrinsic to the stories are dealt with, resolved, or intensified, and also identifying the pedagogical features of each example.

25 For recent treatments, see Kister, "Metamorphoses of Aggadic Traditions" and Abusch, *From Martyr to Mystic*, esp. Appendix A.

R. Ishmael and R. Simeon

TOSEFTA AND MEKHILTA

The shortest account of Ishmael's and Simeon's deaths appears in the Tosefta, as part of a passage describing the death and sayings of Samuel the Lesser. Saul Lieberman highlights two recensions of the text. One states, "Simeon and Ishmael are to be killed, the rest of their colleagues put to the sword . . ." while the other, "Simeon and Ishmael are to be put to the sword, their colleagues to be killed. . . ." (*t.Soṭah* 13:4). In this simple form all we know is that an inspired Sage predicts that two Sages named Simeon and Ishmael will be killed along with others, though they are not given the title of "Rabbi." One of the variants specifies that the instrument of their execution is a sword.[26]

In the *Mekhilta deRabbi Ishmael*, this image of death by a sword appears in more developed form through a commentary upon a biblical verse that presents the sword as divine punishment for transgression:

> You shall not oppress (*teʿanun*) any widow or orphan. If you indeed oppress (*ʿanneh teʿanneh*) them, when they cry out to Me, I will surely heed their outcry. My anger shall flare, and I will kill you by sword, so that your wives will become widows and your children orphans (Exodus 22:21–23).

Although there are medieval and modern commentators who gloss this verse as an instance of "measure for measure,"[27] the relation between act and divine punishment is not at all simple. For the perpetrator, God's response is much greater than the act: oppressing another person leads to being killed, and in addition their wives and children suffer as widows and orphans though they did no wrong. There is a displaced correspondence, such that the state of the kindred will become the same as that of the victims at the outset; lexically, this point is expressed through the repetition of the words "widow" and "orphan." The commentary in the *Mekhilta* on this verse begins:

> *If you indeed oppress* (*ʿanneh teʿanneh*): All the same are a major act of oppression (*ʿinnui*) and a minor act of oppression. Another opinion – *If you indeed oppress* (*ʿanneh teʿanneh*): It says that one is not guilty until he oppresses and repeats.

The exegesis plays on the doubling of the verb for "oppress" (*ʿnh*), which in biblical Hebrew is an emphatic. The first interpretation views the two occurrences

26 For an extended analysis of this passage, see Abusch, *From Martyr to Mystic*, 91–94.

27 See R. Simeon b. Meir (Rashbam, 1085–1174) on these verses as well as Umberto Cassuto, *A Com-*

as indicating two actions that bring God's punishment, one major and one minor, but each bringing the same divine response. The second opinion presents another way of construing the doubling – as indicating an act of oppression that happens twice. While the first opinion expands the scope of the actions punished, the second limits it. The key point for the next part of the passage, though, is the midrashic claim that a minor act of oppression related to a widow or orphan can bring death.

The commentary continues with a story of R. Ishmael and R. Simeon that combines the view that a minor act of oppression can bring God's punishment through a sword, with the motif that two Sages named Ishmael and Simeon die by a sword. This narrative has a distinct formal structure that appears in all the recensions, and that it shares with the story of the widow and Elijah. It includes *apparent injustice; distress, question, or complaint; inquiry by another party; and resolution*:

> *Apparent injustice.* R. Ishmael and R. Simeon were already going out to be killed.
>
> *Distress, question, or complaint.* When R. Simeon said to R. Ishmael, "My Master, my heart fails me, because I do not know why I am being killed."
>
> *Inquiry by another party.* R. Ishmael said to R. Simeon, "In your life did a person ever come to you for a judgment or a question, and you delayed him until you finished drinking your cup, or until you tied your shoe, or until you wrapped your cloak?" Torah says, *If you indeed oppress* (*ʿanneh teʿanneh*): All the same are a major act of oppression (*ʿinnui*) and minor act of oppression.
>
> *Resolution.* At this word, [R. Simeon] said to him, "You have comforted me, my Master" (*Mekhilta deR. Ishmael, Mishpaṭim* 18 to Exod 22:22).[28]

The setting is one of impending martyrdom – righteous men (now identified as Rabbis) are about to be killed. The theme of persecution by the Romans, moreover, continues in a story about R. Akiva hearing of their death and warning of future disasters.[29] The language that is used to describe their execution echoes

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mentary on the Book of Exodus (Jerusalem: Magnes Press 1967) 291–93.

28 H. S. Horovitz and I. A. Rabin, eds., *Mechilta d'Rabbi Ishmael* (Frankfurt a.M.: J. Kauffmann, 1928–31. Repr.; 1997) 313; Jacob Z. Lauterbach, *Mekilta De-Rabbi Ishmael* (3 vols.; Philadelphia: Jewish Publication Society, 1933–35) 3:141–43.

29 Many scholars treat the two stories as a unit. I separate out the story of R. Ishmael and R. Simeon in part for reasons of space, but also because it appears to have circulated independently in rabbinic culture: as I will note in my analyses below, the material that follows this scene varies from text to text.

rabbinic legal terminology for beheadings in *m.Sanh.* 7:3.[30] This situation generates an inquiry into the workings of God's justice begun by R. Simeon: "I do not know why I am being killed." His comment does not necessarily assert that God is unjust, but at least he implies that God's actions are not immediately comprehensible.

R. Ishmael's questioning centers on Exod 22:22–23 and implies the midrashic interpretation that any sort of affliction, major or minor, is treated severely. He suggests that R. Simeon may have oppressed others through making them wait, and he specifies three possible instances: drinking, tying a shoe, and dressing. His inquiry functions like Hillel's process of interpreting the events that led to a skull floating by him – an attempt to make sense of the present through an account of the past. The execution of a Sage by a sword becomes God's punishment for a delay in responding to a person's question. This answer removes agency from Rome and the realm of political action and places it in the realm of the Rabbis' God. Rather than being killed for practicing Jewish law, they are being killed for not sufficiently fulfilling rabbinic ideals. The issue at stake is not even legal transgression understood in a simple manner, but the details of rabbinic ideals for virtuous comportment. The real agent, here, is the Rabbi in the minutiae of his daily relations, not the political and coercive powers of empire. The narrative is sealed with R. Simeon affirming the suggestion and being comforted.[31]

In this version, the motif of martyrdom is strongly subordinated to the teaching concerning delay in judgment. The anthological context is a commentary on Exod 22:22–23, highlighting the concern with a minor act of oppression; the verse and its interpretation are quoted again in the story itself. R. Simeon's question is not posed in extremely strong terms, and the resolution is presented as clear and unambiguous. The next account differs on several of these points.

ʾ*EBEL RABBATI* (*SEMAḤOT*)

Chapter Eight of the rabbinic tractate on mourning, euphemistically entitled *Semaḥot*, begins with a discussion of burial practices that are distinctive in several respects, including that they concern the deaths of special persons: a bride and groom, a king, and a patriarch. Paragraph Seven of this chapter presents a scene in which Samuel the Lesser asks a question of Rabban Gamaliel, and then the text describes his death and eulogy. The unit concludes with a line that echoes the Tosefta, including the prediction, "Simeon and Ishmael are to be put to the sword" (*Sem.* 8:7). The next paragraph describes the martyrdom of the two Sages:

30 See *m.Sanh.* 7:3; Avemarie, "Aporien der Theodizee," 205–6.

31 These observations expand upon points made in Avemarie, "Aporien der Theodizee," 206–7.

Apparent injustice. When Rabban Simeon and Rabbi Ishmael were seized, and it was decreed upon them that they would be killed.

Distress, question, or complaint. R. Ishmael cried. R. Simeon said to him, "Son of a noble, in two steps you will be given into the bosom of the righteous, and yet you cry?"
He said, "Am I crying because we are to be killed? I am crying because we are to be killed like those who murder and desecrate the Sabbath."

Inquiry by another party. He said to him, "Perhaps you were at a meal or asleep, and a woman came to ask about her menstrual impurity, or she asked about her impurity or purity, and the attendant said to her, 'He is sleeping.'" The Torah says, *If you indeed oppress* (*ʿanneh teʿanneh*) *them*, and what is written afterwards is, . . . *anger shall flare, and I will kill you by sword, so that your wives will become widows and your children orphans* (Exod 22:22–23).

There are those who say: Rabban Simeon was crying, and R. Ishmael spoke to him in these words (*Sem.* 8:8).[32]

This account is framed, then, by a strong linking of Samuel the Lesser's prediction and the dialogue between the two Sages, which appear separately in tannaitic sources. The dialogue specifies further the Sages' identities: the ambiguous "Simeon" is specified not only as being a Rabbi, but as being "Rabban Simeon" (and in some manuscripts, he is appears with the full name Rabban Simeon ben Gamaliel).[33] The material following this story is similar to that in the *Mekhilta*, with an account of R. Akiva hearing the news of their deaths.

The anonymous editors who created Chapter Eight of *Semaḥot* present a much more fragile and ambivalent account of divine justice than those who developed the version in the *Mekhilta*. The story is exegetically contextualized in relation to the *midrash* to Exod 22:22–23, but that link is less strong than in the *Mekhilta*: the play on the doubling of *ʿnh* is presumed but not explicated, and the verse comes at the end as a prooftext but not also at the beginning as a lemma (the point that the delay concerns a woman, though, may be linked with the widow of the verse). The story is also anthologized in a very different way, appearing in a text concerning death rituals and followed by a series of other stories about martyrdom. Saul Lieberman has observed that

32 Dov Zlotnick, *The Tractate "Mourning" (Regulations Relating to Death, Burial, and Mourning)* (New Haven: Yale Univ. Press, 1966) 59–60, 215–16; Michael Higger, *Treatise Semaḥot* (New York: Bloch, 1931. Repr.; Jerusalem: Makor, 1969) 36–38, 153–54.

33 See Higger, *Semaḥot*, 153; on the larger issue, Abusch, *From Martyr to Mystic*, 91–100.

this collection includes "almost all the early martyrdoms mentioned in *Tannaitic* and Talmudic writings."[34]

Lieberman also notes that the expression, "In two steps you will be given into the bosom of the righteous," is an instance of late martyrological discourse. Other work by editorial hands shows a distinct concern with the death and apparent injustice, at least in comparison with the *Mekhilta*: the word "killed" appears three times rather than two, the Rabbi's crying indicates more emotion in his distress, and at the end there is no acknowledgment by the plaintiff that the justification is correct or comforting – we only have silence. A detail with complex significance is the claim that they are "being killed like those who murder and desecrate the Sabbath." On one hand this statement intensifies the expression of frustration, yet on the other, in the narrative as a whole the line creates a rhetorical move that is similar to ethical maxims I discussed above: naming paradigmatic sins of rabbinic Judaism and then a trivial sin as being of equal or greater weight.

The editors of *Semaḥot*, then, develop and anthologize the story in a way that gives much more attention to death and worldly injustice than does the *Mekhilta*, and the literary structure includes no neat wrap-up at the end. For all we know, the first Rabbi's cries may continue.

ʾABOT DERABBI NATHAN, VERSION A

ʾAbot deRabbi Nathan is, in somewhat simplified terms, a commentary to maxims also found in the Mishnaic tractate *ʾAbot*. *ʾAbot deRabbi Nathan* is a text of ethical instruction, upholding scholastic values and ways to attain them, but it also has accounts of suffering and disaster that raise questions concerning the workings of divine justice (particularly by way of long passages that present the Roman destruction of Jerusalem, some of which I discussed above). The story of the two Rabbis being killed appears as commentary to an element in a numerical list:

> "Seven kinds of retribution come into the world because of seven types of transgression" (*ʾAbot R. Nat.* A, chap. 38; ed. Schechter, 113; also *ʾAbot* 5:8).[35]

One of these seven is,

34 Saul Lieberman, "The Martyrs of Caesarea," *Annuaire de l'institute de philologie et d'histoire orientales et slaves* 7 (1939–44): 443–45.

35 On this maxim, see Kister, *Studies*, 77 and Schechter's comments in his edition, 115 n. 12; also see *b.Šabb.* 33a.

> "The sword comes into the world because of the delay of justice, the perversion of justice, and because of those that teach[36] the Torah not in accordance with the law (*halakhah*)" (*ʾAbot R. Nat.* A, chap. 38, ed. Schechter, 115; also *ʾAbot* 5:8).[37]

The association between the "sword" and "delay of justice" in this maxim may well imply the interpretation of Exod 22:22–23 attributed in the *Mekhilta* to R. Ishmael. The main concrete evidence for this, though, is in *ʾAbot deRabbi Nathan* itself, where the conclusion of the verse is cited only after a series of narratives.[38]

The commentary begins with R. Simeon and R. Ishmael, who are specified even more thoroughly than in *Semaḥot* as Rabban Simeon ben Gamaliel and R. Ishmael ben Elisha:[39]

> *Apparent injustice.* When they captured Rabban Simeon ben Gamaliel and R. Ishmael to be killed,
>
> *Distress, question, or complaint.* Rabban Simeon ben Gamaliel sat and was deep in thought (*toheh bedaʿto*). He said, "Woe to us that we are being killed like those who desecrate Sabbath, worship idols, commit incest, and murder."
>
> *Inquiry by another party.* R. Ishmael ben Elisha said to him, "May I say one thing before you?"
> He said, "Say it."
> He said, "Perhaps, when you reclined at a meal, poor people (*ʿaniyyim*) came and stood at your door, and you did not allow them to enter and eat?"
> He said, "Heaven forbid that I did that! Rather, I had guards sit at the door. When poor people would come, they would bring them into my house, so [the poor] would eat and drink and bless the name of Heaven."
> He said to him, "Perhaps when you sat and expounded on the Temple mount, and all the hosts of Israel were sitting before you, you became proud (*zaḥah daʿteka ʿaleka*)?[40]

36 Goldin points out that this word may best be translated as "decide" ("Two Versions," 115).

37 There are several variants on the last word (ed. Schechter, 114 n. 6; Kister, *Studies*, 129).

38 In the edition of the Gaon Rabbi Elijah of Vilna (GRA), a citation and discussion of Exod 22:22–23 appears immediately following the maxim.

39 Louis Finkelstein, *Introduction to the Treatises Abot and Abot of Rabbi Nathan* (Hebrew with an English summary) (New York: Jewish Theological Seminary of America, 1950) 100–101.

40 On this phrase, see Kister, "Metamorphoses of Aggadic Traditions," 217 n. 100.

> *Resolution.* He said to him, "Ishmael, my brother. A man must be prepared to receive his affliction (*pigᶜo*)" (*ʾAbot R. Nat.* A, chap. 38; ed. Schechter, 114–15).

The material following this scene differs from that in the *Mekhilta* and *Semaḥot*. Rather than an account of R. Akiva hearing about the death, editors continue describing the death itself. Each of the Sages volunteers to go first, then they cast lots and the executioner kills R. Simeon. R. Ishmael laments, and the executioner kills him. Only after all this material, the text summarizes:

> Regarding them Scripture says, *My anger shall flare, and I will kill you by sword, so that your wives will become widows and your children orphans* (Exod 22:22–23) (*ʾAbot R. Nat.* A, chap. 38; ed. Schechter, 114–15).[41]

The ensuing exegesis develops the last part of the verse concerning the wives becoming widows.[42] This story presents a stronger ambivalence than either that in the *Mekhilta* or that in *Semaḥot*, with distinct features intensifying both the pedagogical teaching and the questioning of divine justice. The prooftext of Exod 22:22–23 appears, though it is displaced and has no explanatory discussion concerning minor acts of oppression. Most significantly, R. Ishmael's inquiry is much longer. It does not develop the concern with delaying judgment but focuses instead on two other rabbinic ideals. The first is hospitality and probably alludes to a maxim found and commented upon elsewhere in *ʾAbot deRabbi Nathan*, "Let the poor be members of your house" (*ʾAbot R. Nat.* A, chap. 7; also *ʾAbot* 1:5; *ʾAbot R. Nat.* B, chap. 14; ed. Schechter, 33–35). The second concerns arrogance, and is part of an ideal throughout *ʾAbot deRabbi Nathan* of upholding humility (see especially *ʾAbot R. Nat.* A, chap. 15; also *ʾAbot R. Nat.* B, chap. 29; ed. Schechter, 59–62).[43] The phrase for arrogance (*zaḥah daᶜateka*) employs terminology that echoes R. Simeon's initial contemplation (*toheh bedaᶜato*). The key word in both phrases (*daᶜat*) is a nominalized form of a root for knowing or knowledge, but as a part of the self it can have both intellectual

41 Kister discusses at length the location of the biblical verse, arguing that the intervening material is a later, secondary addition to the narrative tradition ("Metamorphoses of Aggadic Traditions," 216–217).

42 On this subsequent material, see Kister, "Metamorphoses of Aggadic Traditions," 213–17; Abusch, *From Martyr to Mystic*, 91–100. Note also, as Natalie Polzer has pointed out to me, that the discussion of whether or not God is just appears to be separate from the account of human suffering; people may mourn and lament death, even if it is attributed to appropriate action by the deity.

43 On the concern with arrogance in other versions of this story, see Higger, *Semaḥot*, 38 and Goldin, "Two Versions," 113–14 and nn. 67–69.

and emotional elements. This version of the story, then, moves from R. Simeon's *daʿat* being uncomfortable in the present, and concludes with his recalling a transgression of his *daʿat* of the past.

At the same time, R. Simeon's complaint has significant embellishment as well. The phrase indicating that he "contemplated" (*toheh bedaʿato*) may imply more intensity than the *Mekhilta*'s account of him just "saying" what he is thinking, and manuscripts of *ʾAbot R. Nat.* A employ stronger terms of crying and shouting.[44] As in *Semaḥot*, R. Simeon compares his situation to those who commit major transgressions of rabbinic law, and here the list is longer (four elements rather than three). Unlike in *Semaḥot*, though, the story has a resolution with R. Simeon acknowledging R. Ishmael's point, but notably he does not employ the language of divine justice. R. Simeon says that he must accept his "affliction" (*pigʿo*), but affliction does not necessarily imply justice – the conclusion could have used, for example, the term "retribution" (*purʿanut*), which appears in the maxim commented upon. In manuscripts, two other options are pursued, each clearer but in opposite ways. One presents a stronger critique of divine action by labeling the event as an affliction and also implying that R. Simeon rejects R. Ishmael's suggestion. Another upholds God by concluding with R. Simeon emphasizing the need to accept God's "decree" (*gzr*) – a notion firmly rooted in the discourse of divine justice.[45]

In sum, then, the editorial stream of *ʾAbot R. Nat.* A has created a version that heightens both sides of the story's extremes. R. Simeon's initial contemplative state and his comparison to those who commit extreme transgressions, along with his lack of a final acknowledgment that God is just, all intensify the sense of protest or doubt. However, the anthological and exegetical context, as well

44 See Schechter's summary of the manuscripts in his notes to version A, 114 n. 7.

45 On the manuscripts, again see Schechter's notes to version A, 114 n. 7. Adolph Büchler's comments on this point, while presented in overly historicist terms, are extremely perceptive. He says of R. Simeon: "In one version of the account he denied his colleague's suggestion, and in the printed text he appears to have taken no notice of it, as he said in reply, 'My brother Ishmael, man is prepared that he should accept his affliction.' The meaning of the words is not quite certain; for it should be noted that he referred to his violent death not as a punishment for a single sin or for several sins, but as *pegaʿ*, misfortune, affliction not necessarily deserved. The suffix defines the great calamity as meted out to man, no doubt, by God; and it is not clear whether R. Simeon regarded it only from his point of view as *pegaʿ* but, at the same time, admitted God's justice in inflicting it upon him for sins committed, or intended to express the thought that God dealt very strictly with him. Also the meaning of the verb *šeyikabbel* is not free from ambiguity, as it may denote 'that he should receive (from God) his hard lot,' or 'that he should accept (upon him willingly or unwillingly) the hard lot assigned to him (by God).' And lastly, the signification of *mukhan* in the context is not without doubt, as it may mean: 'man has been prepared (by God), or destined to accept, or to receive his fate,' it is not within his power to escape from it or even to resist it, as it is the hand of God, or 'man is liable to receive his fate.'" See *Studies in Sin and Atonement*, 202–3.

as the long inquiry by R. Ishmael and the later citation of Exod 22:22–23, all reinforce the emphasis on ethical instruction. In fact, several teachings are packed into this one unit: the maxim teaches that one should avoid delays in judgment, yet the narrative lacks this point and rather draws attention to the danger of arrogance and the value of generosity toward the poor.

ʾABOT DERABBI NATHAN, VERSION B

In *ʾAbot R. Nat.* B, the story appears as commentary to the same maxim, though the saying is shorter and its items in a different order: "The sword comes into the world because of perversion of justice and delay of justice." Again the commentary begins with the narrative:

> *Apparent injustice.* A story of Rabban Simeon ben Gamaliel and R. Ishmael, who were going out to be killed.
>
> *Distress, question, or complaint.* R. Simeon ben Gamaliel cried.
> R. Ishmael said, "My master, why are you crying? Is it not so that another two steps and you will be laid out beside your ancestors [i.e., in the tomb]?
> He said, "Do you imagine that I am crying because I shall not have a few more years (*šanim*)?"[46]
> He said, "Thus it says, 'Sweet is the sleep (*šenat-*) of the worker, whether he eats little or much, but the abundance of the rich man does not let him sleep'" (Ecclesiastes 5:11).
> He said, "Shall I not cry when I am going out to be killed like those who worship idols, commit incest, murder, and desecrate the Sabbath?"
>
> *Inquiry by another party.* R. Ishmael said, "Is it for nothing? In your life, did a woman never come to ask you about her menstrual impurity, or a man about his vow, and you were sleeping, or dining, or perhaps the time was not free, or perhaps the attendant did not allow them to enter?"
> He said, "Whether I slept or dined, the attendant was instructed: do not prevent a person from entering."
>
> *Resolution.* He said, "Yet it is not for nothing. Once I was sitting and people stood by me, and I became arrogant (*gas libbi ʿalay*).[47] He said, "It is appropriate for us to be killed" (*ʾAbot R. Nat.* B, chap. 41; ed. Schechter, 113–15).

46 This line is difficult; see Schechter's notes to version B, 114 n. 8. I have followed the translation of Anthony Saldarini, *The Fathers According to Rabbi Nathan (Abot de Rabbi Nathan) Version B* (Leiden: E. J. Brill, 1975) 244, and see n. 12 there.

47 On this ending, see Goldin, "Two Versions," 138; Saldarini, *Fathers*, 245; Kister, "Metamorphoses of Aggadic Traditions," 214 esp. n. 98

As in *ʾAbot R. Nat.* A, the section continues by describing an exchange between the two Rabbis and the executioner, then a lament by the living Rabbi over the dead, and finally he is killed as well. In *ʾAbot R. Nat.* B, however, there is no citation of Exod 22:22–23.

The commentary upon the maxim begins with this story, which here has a number of rough edges. In several cases the speakers are not clear, and there are variations in the manuscripts regarding who speaks which line.[48] Also, the link between the story and its exegetical role is tenuous on two points. First, even though there is a concern with apparently minor transgressions, the scriptural grounding in Exodus has dropped out. Second, the story concludes specifically with a focus upon arrogance as a vice, yet unlike in *ʾAbot R. Nat.* A, the maxim in *ʾAbot R. Nat.* B lacks the concern with improper teaching of Torah.

Along with these problems, the passage has its own distinct points of subtlety. The complaint is similar to that in *Semaḥot*, having a modified form of the martyrological terminology, the image of the Sage crying, and the list of major sins.[49] There is also a significant addition. Drawing on a pun between "years" and "sleep" (both using the consonants *šin* and *nun*), the complaint is glossed by a verse from Ecclesiastes stating, "'Sweet is the sleep of the worker . . ." (5:11). While this exegesis is not developed, the citation may imply a broader rabbinic discussion concerning the death of the righteous that appears in *Ecclesiastes Rabbah* as commentary to this verse. The tendency there is to uphold God, but not by way of the terminology of divine justice: for example, one case puts the responsibility on "Israel" or the Jews, seeing the death of the righteous as punishment for communal failure, and another states that God knows the right time for a person's death even if it mysterious to humans.

R. Simeon's strong expression of distress and confusion is followed by an expansive inquiry by R. Ishmael. These lines are similar to the ones in *Semaḥot* that concern a woman asking a question, but longer. The resolution centers on arrogance as the key transgression (as in *ʾAbot R. Nat.* A, but with different terminology), and the divine action is labeled as fitting but not specifically just.[50]

SEDER ELIYAHU

In the late midrashic text *Seder Eliyahu Rabbah*, the story of the two Rabbis appears in a new context, as part of a very long commentary upon a psalm:

> A Psalm for Asaph: O God, foreigners have come into your inheritance, defiled your holy halls, and turned Jerusalem into ruins. They have made

48 See Saldarini. *Fathers*, 244–245 and notes.

49 See Kister, "Metamorphoses of Aggadic Traditions," 218.

50 For another example of *gas lev* in the *ʾAbot deRabbi Nathan* texts, see *ʾAbot R. Nat.* A, chap. 9; (ed. Schechter, 40).

> your servants' corpses (*niblat ʿabadeka*) into food for the birds of the skies, the flesh of your faithful for the wild animals of the land. Their blood was shed (*šapeku damam*) like water around Jerusalem, with none to bury them (Psalm 79:1–3).

The exegesis of the verse takes up themes such as the destruction of the Temple, exile, oppression by other nations, martyrdom, and the relation of these human sufferings to divine judgment and compassion. The discussion then turns to a set of stories about Hadrian, a widow, and her children.[51]

The combination of topics – suffering, persecution, and martyrdom, on the one hand, and a probable association between the widow and children of the narratives and those of Exod 22:21–23, on the other – provides the literary context for our story:

> *Apparent injustice.* When Rabban Simeon and R. Ishmael were captured to be killed.
>
> *Distress, question, or complaint.* Rabban Simeon cried and said, "Why are we being killed like those who worship idols[52] and desecrate the Sabbath? Our deaths will be like [those who eat] carrion (*nebelot*), animals dead of disease, unclean animals, and creeping things."
>
> *Inquiry by another party.* R. Ishmael said to him, "My Master, may I argue before you? Once we sat to pass judgment, and we did not judge properly. False witnesses gave testimony before us, and [the defendants] were condemned to death.
> And, we entered the bath house and turned our attention to eating and drinking. Orphans and widows came to request sustenance, and the attendant said to them, 'The time is not acceptable.' Come and see how great is the punishment (*ʿonešo*) for this thing, as it is said, *You shall not oppress* (*teʿanun*) *any widow or orphan. If you truly oppress* (*ʿanneh teʿanneh*) *them, when they cry out to Me, I will truly heed their outcry. My anger shall flare, and I will kill you by sword, so that your wives will become widows and your children orphans*" (Exod 22:21–23) (*Sed. Eli. Rab.* 30/28; ed. Friedmann, 153).

The ensuing passage is similar to those in *ʾAbot deRabbi Nathan*, portraying

51 This section begins at the start of *Seder Eliyahu Rabbah* 30 (28); (ed. Friedmann, 147). Much of the material in this section has parallels in *Lamentations Rabbah*, and an analysis of large portions of this latter collection can be found in Galit Hasan-Rokem, *The Web of Life* (Stanford: Stanford Univ. Press, 2000) 108–29.

52 Following William G. Braude and Israel J. Kapstein, *Tanna Debe Eliyyahu: The Lore of the School of Elijah* (Philadelphia: The Jewish Publication Society of America, 1981) 333 n. 26.

each of the two Rabbis volunteering to go first, the execution of one of them, a lament by the other, and then the final beheading. This latter section concludes with God promising revenge upon the world for their deaths (quoting Ezekiel 21:22).

Rabban Simeon's complaint opens similarly to those in *Semaḥot* and *ʾAbot R. Nat.* B: he cries and compares his situation to those who perform major transgressions. An added feature is the mention of forbidden foods such as carrion (*nebelot*). This line has been received in two ways: either they are being killed "like those who eat" such foods, or their death itself "will be like" carrion and so on.[53] The former reading treats the consumption of impure foods as being like the major sins, while the latter echoes the lemma and the image of the servants' corpses (*niblat ʿabadeka*) being made into food for birds. In either reception, the text presents a stronger and more developed statement of distress than do the *Mekhilta*, *Semaḥot*, and *ʾAbot R. Nat.* A (*ʾAbot R. Nat.* B, with its reference to Eccl 5:11, may be comparable).

The inquiry is also well developed and presumes *ʾAbot* 5:8 – "The sword comes into the world because of the delay of justice, the perversion of justice, and because of those that teach the Torah not in accordance with the law" – though the epigram itself is not quoted. The passage in *Seder Eliyahu* highlights the delay of judgment, as in *ʾAbot deRabbi Nathan*, but also includes a commentary upon *ʾAbot* 5:8 that is not preserved in those other collections, for R. Ishmael also presents cases in which justice is perverted: a death sentence given on the basis of false testimony. The inquiry also includes a citation of Exod 22:21–23 and the detail that "orphans and widows" were the ones not received by the attendant. In addition, R. Ishmael specifically employs a technical term for divine punishment (*ʿoneš*), making clear that God's justice is at play.

Finally, the conclusion has two details that push the story in contrasting directions. On one hand we do not see any acknowledgement by R. Simeon that he accepts R. Ishmael's interpretation (like *Semaḥot* and unlike the *Mekhilta* and *ʾAbot deRabbi Nathan*), which would seem to intensify the sense of protest. On the other, the later passage in which God promises to destroy the world in response to the martyrdom – a punishment that is much greater than the act, but this time visited upon the entire world – emphasizes ultimate divine support of the Jews.

The development of the story in *Seder Eliyahu*, then, is in its details probably most like that in *Semaḥot*, but in overall tone and temper probably like *ʾAbot R. Nat.* A: given the two impulses of the distress concerning divine action and the resolution in terms of ethical teaching, the compilers of the text intensify

53 See Friedmann, *Seder Eliyahu Rabbah*, 153 and note 27; Braude and Kapstein, *Tanna Debe Eliyyahu*, 333.

and embellish both. Several features strengthen the challenge posed to claims of divine justice: the anthological location in a collection of stories about suffering and persecution commenting upon Ps 79:1–3, the extensive statement by R. Simeon listing major sins as well as the image of carrion, and the lack of final acknowledgment by that Sage. Other features emphasize that the Sages are appropriately punished for their wrongdoing: the long inquiry by R. Ishmael (including cases of delay and also perversion of justice), the prooftext of Exod 22:23, and the use of technical language for legal punishment. The final promise of God's future destruction of the world (using the root *ḥrb*, which puns with the word for "sword") adds another element, that God will respond to this attack upon the Jews with a much greater destruction that will encompass all of their persecutors.

The story of R. Ishmael and R. Simeon combines two very different aspects of rabbinic thought and teaching. The deaths raise deep questions concerning God's action – can the language of justice be used to describe God as acting in the world, and is God's justice at all similar to human justice? The strong warning against a delay in judgment, in contrast, is part of a pedagogical motif that presumes a strong confidence in divine justice: for aspiring Sages, apparently small actions may bring tremendous consequences.

What did late ancient and early medieval rabbis do with this juxtaposition? All five stories that I have examined maintain these two elements and develop them through a narrative structure that includes the apparent injustice, a statement of distress or questioning by one Rabbi, an inquiry by the other, and in some cases, a resolution through some form of acknowledgment by the first Sage. Given these constancies, we have seen many alternatives. The story may be anthologized in an exegetical midrash on Exodus, a collection of stories about martyrdom in a compilation concerning death, a commentary on a maxim in an ethical text, or an exegesis of a verse from Psalms about destruction in another ethical compilation. The complaint can come in the form of a Rabbi "saying" something, "contemplating" it, or "crying." His comments often include a comparison between the Sages' death and that of people who commit major sins, and other variations include martyrological terminology, an implied *midrash* to Eccl 5:11, and comparisons to carrion and other unclean meat. The inquiry usually focuses on the prohibition against keeping people waiting for a decision or a teaching (sometimes for men, sometimes specifically for women), but it may also include the issues of hospitality to the poor and proper ways of dealing with witnesses in a court. A concern with arrogance also appears in two cases, one in the inquiry and one in the resolution. Finally, three of the five stories have some conclusion in which the Rabbi who voices the complaint says

he is comforted or accepts the theological interpretation, though in at least one case a degree of protest may still be implied.

In terms of overall shaping and ethos, I believe that we can identify three tendencies. The first, exemplified by the *Mekhilta*, is a strong assimilation of the martyrdom into a teaching about the trivial sin. This version minimizes the protest and maximizes the inquiry, resolution, and exegetical grounding in Exod 22:21-23. The second tendency, most visible in *Semaḥot*, is to emphasize the martyrdom and the despair. This version locates the narrative in relation to stories about Sages being killed, the complaint includes the comparison to major transgressions, and there is no resolution at the end. The other three stories, in different ways, take the conflict and intensify it, sharpening and embellishing both sides.

The Widow and Elijah

BABYLONIAN TALMUD *SHABBAT*

Now I will shift our attention to a different story with a very similar literary structure and set of issues. The arguably earliest recension is in the *Bavli* (in contrast with the story of R. Ishmael and R. Simeon, whose roots are Palestinian), and it also appears in *ʾAbot R. Nat.* A and *Seder Eliyahu*. In the Talmud, the story appears as commentary to *m.Šabb.* 1:3, which begins by stating that a tailor should not go out with his needle near nightfall, nor should a scribe with a quill. The final line of this Mishnah is:

> A man with a discharge should not eat with a woman with a discharge because it would be an occasion for transgression (*m.Šabb.* 1:3).

The conceptual underpinning of this line includes material from Leviticus 15 concerning the transference of impurity from one person to another through physical contact, including intercourse, and also passages from Leviticus 18 in which intercourse between a man and a menstruating woman is listed among prohibited sexual relations, and men are commanded not to "go near" a menstruating woman (Lev 18:19; also 20:18).[54] Implicit in the whole section may be the rabbinic concept and trope of the "fence" or "hedge" around the law – following a stricter standard than required by Scripture so as not to transgress divine law (I will return to this point below).

54 Hanoch Albeck cites verses from these two sections of Leviticus in his commentary to this *mishnah*; see *Shishah Sidre Mishnah* (6 vols; Jerusalem: Mossad Bialik, and Tel Aviv: Dvir, 1952–56) 2:18. Charlotte Fonrobert presents a highly developed discussion of the different conceptual contexts implied by these two sections in *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford: Stanford Univ. Press, 2000) 20–22.

The talmudic commentary to this *mishnah* takes up the question of whether a menstruant and her husband can sleep together, each in their own clothes. The discussion includes comparisons between women and food, between sex with a menstruating woman and sex with a man's neighbor's wife, a citation of Lev 18:6 prohibiting incest, and a brief anecdote about a man who was physically intimate with his sisters. Then the compilers present this story:

> *Apparent injustice.* A teaching of the School of Elijah: a story of a student who studied Mishnah a great deal, studied Scripture a great deal, and served the students of the Sages a great deal, and he died at half of his expected days.
>
> *Distress, question, or complaint.* His wife took his *tefillin* and repeatedly brought them to the synagogues and study houses and said, "It is written in the Torah: *For it is your life and the length of your days* (Deut 30:20). My husband studied Mishnah a great deal, studied Scripture a great deal, and served the students of the Sages a great deal. Why did he die at half of his expected days?"
>
> *Lack of Response.* No one could reply a word.
>
> *Inquiry by another party.* Once I was a guest at her house, and she told me about that entire event. I said to her, "My daughter, in the days of your menstrual impurity, what did he do in relation to you?"
> She said to me, "Heaven forbid if even with his little finger did he touch me."
> "In your white days, what did he do in relation to you?"
> "He ate with me, drank with me, and slept with me in bodily contact, but nothing else came to his mind."
> I said to her, "Blessed be the Omnipresent who killed him, for he did not pay attention to the Torah; the Torah says, *To a woman in her menstrual impurity, do not come near* (Lev 18:19) (*b.Šabb.* 13a–b).

This story is followed by two teachings that try to clarify exactly what the couple did. The first is itself enigmatic, saying that it was "one bed" (Rashi interprets this as a "wide" or "broad" bed), and the second states that a garment separated the two of them.[55]

This story's structure parallels the one of R. Simeon and R. Ishmael, as I have shown in the translation, with a number of added complexities. First, R. Simeon faces his own death and attributes this to a past transgression of his own. The

55 See Hauptman, *Rereading*, 174 n. 39; Baskin, *Midrashic Women*, 25–26.

56 As discussed above, such a double punishment appears also in Exod 22:21–23.

student's death, however, punishes two people – the student himself and his wife, who becomes a widow.[56] The responsibility for the act is also ambiguous, for it appears that both the husband and wife are being held accountable even though, as Charlotte Fonrobert has argued, rabbinic laws concerning menstrual practices make woman's menstruation external, visible, accessible, and under the jurisdiction of men.[57]

The second complexity centers on the point that the complaint is voiced through a woman who laments the death of her husband. In rabbinic literature, as in other cultures, lamentation is often done by women, and it can be an occasion in which women's voices are particular prominent and the possibilities for social criticism are strong. In ancient Greece, for example, there were even significant attempts to regulate and tame women's lamentation in response to the disruptive potential of death rituals.[58] While R. Simeon expresses his distress in a one-time exchange with R. Ishmael, the widow's lament is a highly public act. She takes up her husband's ritual adornment (his *tefillin*), which displays both his piety and his death (as he is not present to wear them), and she repeatedly goes to the synagogues and study houses.

These communal sacred spaces become sites of a visible challenge to God's justice and to the Sages who uphold it. As discussed above, rabbinic literature contains numerous promises that God will reward those who study Torah and serve as disciples to the Sages. The student did all those things, yet he still died young. The widow presents her question through reference to a *midrash* on Deut. 30:20, *For it is your life and the length of your days*. In several passages of the *Bavli* and late midrashic collections, this verse is cited to claim that Torah will give one long life. In one story about the martyrdom of R. Akiva, the verse is even a justification for studying Torah despite persecution and the threat of death (*b.Ber.* 61b). The widow's complaint presumes this *midrash* and then raises the challenge – how could God take the life of a man who immersed himself in the study of rabbinic tradition?

The third way that this story is more complex than the one of martyrdom is in the response. In the account of the two Sages, one Rabbi is able to respond to the other by leading an inquiry into the past and proposing a solution. In the story of the widow, no ordinary human can respond to her question, even at the study houses. Only Elijah, the prophet taken by God during his life-

57 Fonrobert, *Menstrual Purity*, 114–15 and generally 103–27. Jonathan Malamy pointed out this issue to me.

58 On laments in rabbinic literature, see *m.Mo'ed Qaṭ.* 3:9; Hasan-Rokem, *Web of Life*, 108–29; on ancient Greece and cross-cultural studies, see Gail Holst-Warhaft, *Dangerous Voices: Women's Laments and Greek Literature* (New York: Routledge, 1992) esp. 3–6 and 98–126 on male fear and regulation of women's laments.

time who then returns to visit sages and answer difficult problems, can give an answer.[59] This aspect of the story heightens the dramatic tension. Initially the woman's question gains legitimacy, for no men can respond. Then, Elijah's rejection of her complaint carries much more authority than would a comment by an ordinary man – the common gender-based hierarchy in rabbinic literature (man/woman) is accentuated by his status as prophet. Elijah's account of menstrual laws, moreover, is unusual within rabbinic sources. Hauptman and Baskin each address this in different ways. Hauptman writes that the standard assumption in the Talmud is that menstrual separation is only seven days, and that Elijah's norm is not "mainstream." She also points out that the phrase "white days" does not appear elsewhere in the Talmud. Baskin argues that the story reflects a change in law over time: the addition of seven days being a late addition to rabbinic law, and this story indicates resistance to the new requirement.[60] In either case, the legal innovation is upheld through a citation of a standard verse concerning menstrual separation, Lev 18:19.

The literary structure and details of the story highlight the complaint against God's action in several respects. The details of the challenge being framed through a woman's lament, and the men of the study house responding only with silence, may indicate that the questioning runs so deep that only a prophet can respond. Also, unlike the stories in which R. Simeon concludes by acknowledging the rightness of his fellows' interpretation, here we see no resolution. The woman is silent. At the same time, the anthological and exegetical contexts emphasize the opposite pole. The story is located in a discussion of menstrual separation, so the literary context reinforces the concern with the minor transgression, and this is reinforced by the citing of verses from Leviticus 18 both before and in the conclusion of the account.

ʾABOT DERABBI NATHAN, VERSION A

In *ʾAbot R. Nat.* A, the story of the widow and Elijah appears as part of an extended commentary upon the maxim of the Great Assembly, "Be patient in judgment, raise up many students, and make a fence for the Torah" (*m.ʾAbot* 1:1; *ʾAbot R. Nat.* A, chap. 1; *ʾAbot R. Nat.* B, chap. 1, 2; ed. Schechter, 2). The commentary upon "make a fence for the Torah" includes eight different examples of interpretative fencing, and one found in the Pentateuch centers upon Leviticus 15 and 18. The commentators presume the significance of Lev 15:19–24, which states that a man should not touch a menstruant, and they find a fence for this

59 See Friedmann's long introduction to *Seder Eliyahu*; for a number of passages and references in English, see Urbach, *The Sages*, 49, 102, 116, 147, 214, 298, 301–2, 309, 558, 571–72, 658, 660, and 680.

law in the statement, *To a women in her time of menstrual impurity,* do not come near *to uncover her nakedness* (Lev 18:19). They expand upon this point to state that a man should not hug her, kiss her, speak casually with her, or sleep with her even when clothed, and that a woman should make herself unattractive to her husband so as not to arouse his desire.[61]

This literary context is very similar to that in *b.Šabb.* 13a–b. In the talmudic text, the theme of "fencing" is implicit but still present, and both texts integrate in different ways the two sets of laws in Leviticus regarding menstruation. The comment in *ʾAbot deRabbi Nathan* that the man and woman should not sleep together when clothed is likely drawn from the two glosses in the Talmud to the story of the widow and Elijah (particularly the idea of a cloth being placed between them).[62] The story itself in *ʾAbot R. Nat.* A is also quite similar to the talmudic account, though with some slight changes:

> *Apparent injustice.* A story of a student who studied Scripture a great deal, studied Mishnah a great deal, and served the students of the Sages a great deal, and he died at half of his expected days:
>
> *Distress, question, or complaint.* His wife took his *tefillin* and repeatedly brought them to the synagogues and study houses. She would scream, cry, and say to them, "My Masters (*rabbotay*)! It is written in the Torah: *For it is your life and the length of your days* (Deut 30:20). Why did My husband – who studied Scripture a great deal, studied Mishnah a great deal, and served the students of the Sages a great deal – die at half of his expected days?"
>
> *Lack of Response.* There was no person who responded to her with even a word.
>
> *Inquiry by another party.* Once she was visited by Elijah, of blessed memory. He said to her, "My daughter, why do you scream and cry?
> She said to him, "My master (*rabbi*), my husband studied Scripture a great deal, and Mishnah great deal, and attended the Sages, yet he died at half of his expected days."
> He said to her, "When you were in your menstrual impurity, what was he like in relation to you during the first (three)[63] days?"
> She said to him, "My master, Heaven forbid that he should touch me even

60 Hauptman, *Rereading,* 158, 174 n. 39, and generally 156–76; Baskin, *Midrashic Women,* 256.

61 See Schofer, *The Making of a Sage,* 75–83 and notes.

62 On this point, see Kister, *Studies,* 208 and 210 n. 453; compare Goldin, *The Fathers According to Rabbi Nathan,* Yale Judaica Series, vol. 10 (New Haven: Yale Univ. Press, 1955) 178 n. 8.

63 Schechter, *ʾAbot R. Nat.,* 136, suggests deleting "three" and Goldin, agrees. Also, the number does not appear in the New York manuscript of *ʾAbot R. Nat.* A.

with his little finger. Rather, thus he said to me, "Don't touch anything[64] lest it become doubtful [of purity]."

"During the last days, what was he like around you?"

She said to him, "My master (*rabbi*), I ate with him, and drank with him, and slept with him in my clothes on the bed. His flesh touched mine, but we did not intend anything."

He said to her, "Blessed be The Omnipresent who killed him, for thus it is written in the Torah, *To a woman in her menstrual impurity, do not come near* (Lev 18:19) (*ʾAbot R. Nat.* A, chap. 2; ed. Schechter, 8–9).

Following the story, the compilers turn to another version of "fencing," centering on the prohibition against incest and asserting that one should not "come near" a close relative "to uncover nakedness" (Lev 18:6). This call for distance is also generalized, generating the instruction that a man should show no intimacy with a woman in public.

The story in *ʾAbot R. Nat.* A is not presented as "a teaching of the School of Elijah," but Elijah is named as the key male character.[65] The male figures are explicitly linked with Rabbis, as the widow addresses her cries to "my Masters" (*rabbotay*) and she uses the same epithet for Elijah (*rabbi*). The dynamics of challenge and response regarding divine justice are very similar to those in the Talmud, though the woman's protest has a bit more emphasis: she screams and cries rather than just stating her claim, her description of the injustice appears three times rather than two, and her account of her husband's caution is more developed through the line, "Rather, thus he said to me, 'Don't touch anything lest it become doubtful [of purity].'" These details heighten the sense of challenge to the claim that God is just.

Regarding the issue of relative responsibility assigned to the husband and the wife, a small change may be important. In the Talmud, she describes their interactions in terms of *his* action: "He ate with me, drank with me. . . ." In *ʾAbot R. Nat.* A, she presents *herself* as the agent: "I ate with him, and drank with him . . . ," which may indicate that more of the blame is placed on the woman. One of the key changes in relation to the Talmud, though, is a shift in the account of menstrual norms. The widow says explicitly that she slept in her clothes, and Elijah speaks of "first" days and "last" days, which could be interpreted as the days of menstruation plus the following "white" days of the Talmud, but it also might

64 Goldin, *The Fathers*, 178 n. 7, suggests that this may have originally read "utensils."

65 On the phrase "of blessed memory," see Lieberman, *Greek in Jewish Palestine* (New York: The Jewish Theological Seminary of America, 1994) 70 n. 23. For other examples of Elijah's appearance in *Abot deRabbi Nathan*, see *ʾAbot R. Nat.* A, chap. 34; *ʾAbot R. Nat.* B, chap. 37 and 38 (ed. Schechter, 98, 101, 103).

refer to the early days and later days of the menstrual period itself. This latter interpretation would imply a less stringent regulation for menstrual impurity than in the Talmud, but also less scrupulousness on the part of the couple.[66]

SEDER ELIYAHU RABBAH

In *Seder Eliyahu Rabbah*, a parallel appears in a long section of narratives told in the first person and set as a conversation.[67] The discussion includes the topics of incest as well as intercourse with a woman who is menstruating, so the context is similar to the other two recensions we have seen:

> *Apparent injustice.* A story of a student who studied Scripture a great deal, studied Mishnah a great deal, and he entered his eternal home (*bet ʿolamo*) at half of his expected days:
>
> *Distress, question, or complaint.* His wife became insane (*šoṭah*). She would repeatedly go do the doors of the fellows (*ḥaberim*) of her husband. She said to them, "My Masters (*rabbotayy*)! My husband studied Scripture a great deal, studied Mishnah a great deal. Why did he enter his eternal home (*bet ʿolamo*) at half of his expected days?"
>
> *Lack of Response.* They did not reply to her with even a word.
>
> *Inquiry by another party.* Once I was walking in the market and entered the courtyard of her dwelling. She came, sat opposite me, and cried. I said to her, "My daughter, why are you crying?"
> She said, "My husband studied Scripture a great deal, and Mishnah a great deal – why did he enter his eternal home at half of his expected days?
> I said, "In the time of your menstrual impurity, what happened in relation to you?"
> She said, "My Master, he would say to me, 'Throw away [as forbidden for intercourse] all those days in which you see blood, and sit seven clean [days] so that you will not come into doubt."
> I said, "What you said is right, for thus taught the Sages regarding men and women with a discharge, menstruants, and women who have given birth: after seven days they are pure for marital intercourse, as it is written, *When she becomes pure of her discharge, she shall count off seven days, and afterwards she shall be pure* (Lev 15:28).
> In the white days, what was it like at your house? Perhaps with your hand you anointed him with oil, or he touched you even with his small finger?

66 See Hauptman, *Rereading*, 174 n. 39 on the first and last days.

67 The material begins in *Seder Eliyahu Rabbah* 14/15 (ed. Friedmann, 70).

She said, "As you live, I washed his feet, anointed him with oil, and he slept with me in bed, but nothing else came to his mind."[68]

I said, "Blessed be The Omnipresent before whom there is no favoritism, for thus it is written in the Torah, *To a woman at the time of her menstrual impurity, do not come near . . .*" (*Seder Eliyahu Rabbah* 15/16; ed. Friedmann, 76).

After the story, the compilers continue developing the theme of distance with material that is very similar to that which precedes the parallel in *ʾAbot R. Nat.* A, interpreting *Do not come near* as a prohibition against a man hugging, kissing, speaking flirtatiously, or sleeping in bed with a menstruating woman.

The editing of this passage softens the criticism of God and upholds divine justice much more than the other two versions. First, the most obvious feature is the assertion that before God "there is no favoritism." This judicial language alludes to a passage in *m.ʾAbot* that portrays God as a judge (*ʾAbot* 4:22; also *ʾAbot R. Nat.* B, chap. 34; ed. Schechter, 26–72). Second, the husband's righteousness is emphasized through an added line in the widow's account of his concern with menstrual laws. Third, the phrasing of the husband's death as entering "his eternal home" (*bet ʿolamo*) may imply that God rewards his righteousness after death. The expression is an ancient euphemism for a cemetery found in inscriptions as well as Eccles 12:5. In at least two cases, though, Rabbis interpret this line in Ecclesiastes to teach that all people after death gain an eternity based on their actions, and in particular, the righteous will be rewarded. If "his eternal home" implies that midrashic interpretation, then the story portrays the man as dying young but having an eternity of reward.[69] Fourth, the woman's criticism is undermined in two respects: the midrashic justification based on Deut 30:20 does not appear, and most importantly, she is labeled as insane. The link between lament and madness appears in many cultures, and it often is combined with reprimand and marginalization.[70] The combination of these details, then, creates a story that instructs men to be meticulous regarding purity in their sexual relations with their wives, portrays the husband as fastidious in this regard but with a fatal error, and upholds God as a perfect judge who both shows no favoritism and likely rewarded the man for eternity.

68 Braude and Kapstein suggest that "nothing else" (*dabar ʾaḥer*) may have originally been a reference to sexual activity (*derek ʾereṣ*); see *Tanna Debe Eliyyahu*, 170 and Friedmann's Introduction to *Seder Eliyahu*, 103 n. 1.

69 See Fox, *A Time to Tear Down*, 329 regarding Eccl 12:5; *Eccl. Rab.* to Eccl 12:5; *Lev. Rab.* 18:1; Mordecai Margulies, *Midrash Wayyikra Rabbah* (New York: The Jewish Theological Seminary of America, 1993) 396–97; the latter passage appears as commentary to Leviticus 15, and as I have noted, the laws of Leviticus 15 concerning menstruation are central to much of the material surrounding this story.

The basic plot and structure of this story set out issues that are very similar to those in the account of the martyred Rabbis, with an even stronger framing of the conflict. Perhaps rabbinic compilers were freer to voice discontent with divine justice through the literary figure of a lamenting woman than a Sage. In all the stories, she cries out, makes a public display of her husband's *tefillin*, and in two cases frames her challenge through a play on a widespread *midrash* to Deut 30:20. Perhaps most important is the point that no humans could respond, but only Elijah. It is not clear, though, how much weight to place on this point. One interpretation is that it is a minor moment in the story, and that Elijah basically functions as a substitute for a Rabbi, so his role is not all that different from that of R. Ishmael in the earlier story. Since he counters her critique strongly, the story can be read as a full rejection of her protest. Another interpretation is to emphasize the silence on the part of the public and Rabbis, such that her encounter with the prophet indicates the extraordinary significance of her situation and strength of her challenge. This reading would affirm the woman and her stance, even if Elijah himself counters her. Another detail that can be interpreted in two ways is the widow's lack of response to Elijah – does this show the decisive correctness of his solution, or does it signal that she (and those historical Sages and other Jews who sympathized with her plight) does not accept the answer? The comparison to the martyrdom story is provocative on this point, since three versions of that other story have some form of final confirmation.

Despite these strong conflicts internal to the narrative, the contextualization is very consistent and presents the story as pedagogical instruction concerning fastidiousness regarding menstrual purity: it appears in discussions regarding purity issues and not material about death or destruction. The prooftext of Lev 18:19 regularly appears. In *Seder Eliyahu*, moreover, we see a number of editorial additions that uphold God's action as just. In sum, the woman's cry is preserved in rabbinic literature, but both Elijah and at least three editorial streams have consistently worked to answer and quiet her.[71]

Protest or Pedagogy?

I have argued herein that divine justice is best understood as a set of concepts and tropes that are linked with an account of causality and a particular understanding of the relation between human action and divine action. These

70 Holst-Warhaft, *Dangerous Voices*, 27–28.

71 The story also appears in *Midrash Zuṭa* to Ruth 3:6–8, developing Boaz's reaction to encountering Ruth on the threshing room floor. The *midrash* discusses the themes of modesty and fear of God through Proverbs 31 and then presents the account of the widow and Elijah.

concepts and tropes may be employed for various purposes, and part of our scholarly challenge is to identify them. I have chosen stories that are at the intersection of two sets of concerns – the radical questioning of whether God's justice exists or is anything like human justice, and the call to guard against apparently minor transgressions through the threat of great punishment – and I have examined how rabbinic editors received and shaped the narratives to accentuate one side or both. Building from the powerful synthetic methodology set out in Rubenstein's *Talmudic Stories* and drawing upon Kister's attention to the transformation of traditions, I highlighted four ways that a given narrative may convey significance: the story plot and structure independent of the context, the way a story is located in the exegesis of biblical verses or mishnaic passages, the way that the story is anthologized in relation to other narratives and midrashic passages, and editorial additions.

These four elements are often in harmony, but they may have conflicting tendencies. For the story of R. Ishmael and R. Simeon, the *Mekhilta* is the most unified in that Exod 22:22–23 appears both as the lemma and the prooftext, and the distinctive features emphasize the concern with the delay of justice and downplay the protest. In *Semaḥot*, the story also appears with Exod 22:22–23 as a key prooftext, which would show a concern with the minor sin, yet it is anthologized in relation to other stories about martyrdom, and the expansions highlight the complaint, not the resolution. In *ʾAbot R. Nat.* A and B, the story appears in the commentary to a maxim concerning the delay of justice, and editors have incorporated teachings about arrogance and hospitality. Yet, the complaint is also longer, and the resolutions have ambiguities: specifically, in *ʾAbot R. Nat.* A when R. Simeon labels his death as an "affliction" but not the decree of a judge, the editors may preserve a sense of protest without actually asserting that God is unjust. In *Seder Eliyahu*, we see two different exegetical dynamics pulling the story in two directions: Exod 22:21–23 is cited as usual, but the story appears as commentary upon verses from a psalm that highlight the element of disaster. The story of the widow and Elijah, by contrast, has a literary structure that presents a stronger challenge to God's justice than the story of the two martyrs. Yet, three sets of redactors have attempted to ignore or downplay that conflict through the exegetical and anthological contextualization, only developing the concern with menstrual practice and never developing the protest.

If we move from the fine-grained analysis to an overall picture of these stories and their reception – as one would walk backwards twenty feet from a painting to see its overall play of color – for the most part rabbinic editors assimilate the challenge against God into the pedagogy of ethical teaching. This impulse is most clear in the stories of the widow, but even for the martyrs, the

exegetical relations to Exod 22:22–23 and *ʾAbot* 5:8 emphasize this, as does the anthological location in three of the five cases (*Semaḥot* and *Seder Eliyahu* being the texts that emphasize the disaster). Most strikingly, except for a manuscript witness of *ʾAbot R. Nat.* A, in no account do we find a rejection of the solutions offered by R. Ishmael and Elijah. We often find silence, but never a renewed outcry. God may be questioned, but at the end divine authority is legitimated and order affirmed. To the extent that these stories assimilate strong challenges against divine justice into a pedagogy of ethical teaching, they are among the strongest affirmations of that justice in rabbinic literature: even the experience of a martyr at the moment of his death, or the death of a young studious married man, can be used as a stepping-stone on the way to a teaching about everyday life.

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The Oslo Accords and the Temple Mount
A Case Study

The Movement for the Establishment of The Temple

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This article discusses the internal world of the Movement for the Establishment of the Temple, a small and unique group within modern-day ultra-Orthodox circles in Israel. This group seeks to achieve a religious revolution within Israeli Orthodoxy through its demand to rebuild the Temple and to abolish the grave halakhic prohibition against entering the Temple Mount area. The movement argues that Orthodox passivity on this issue is due to a theological error, and accordingly it offers an alternative historiographic and theological approach.

The article discusses in detail the manner in which this group has attempted to achieve religious change and to address the dilemmas raised by this demand. It also discusses the manner in which the group acts to encourage messianic activism within traditionalist Orthodox circles. This discussion may provide valuable information regarding the behavior of modern-day ultra-Orthodox society.

The article describes the theological crisis provoked in certain Orthodox Zionist circles by the Oslo process, which was based on a territorial compromise between the State of Israel and the Palestinians in the Land of Israel, and explains why this crisis enabled the movement's ideas to penetrate growing circles within the rabbinical leadership of Gush Emunim. Concern that the State of Israel might hand the Temple Mount over to Palestinian control led to a change in what had been considered for centuries to be a grave religious prohibition.

The Movement for the Establishment of the Temple is a small but remarkable interest group that has developed within modern-day ultra-Orthodox society in Israel. It is relatively unknown among the general public, and has been largely overshadowed by such figures as Yehudah Etzion from the Jewish Underground, and Gershon Salomon, leader of the Temple Mount Faithful movement. However, the anonymity of this group belies its importance. The Movement for the Establishment of the Temple is one of the most significant of the groups advocating the construction of the Third Temple, and includes most of the activists in this field. Its unique character lies in its special blend of ultra-Orthodox and Messianic theology.

The importance of this group lies in its revolutionary attempt to demand the rebuilding of the Temple. It argues that both the ultra-Orthodox and Zionist wings of Orthodox Judaism committed a grave theological error in

adopting a passive approach to the rebuilding of the Temple. In presenting this argument, the group offers an alternative halakhic and historiographic narrative, and challenges the validity of the grave halakhic prohibition against entering the Temple Mount, the punishment for which is *Karet* – the divinely-imposed death penalty. In its activities and polemical arguments, it succeeded in changing attitudes on this subject among some of the rabbis of Gush Emunim ("Bloc of the Faithful"). While after the Six Day War only a small minority favored entering the Temple Mount and praying on the site, and this position was identified mainly with Rabbi Shlomo Goren (though he did not express it publicly while serving as chief rabbi), this position is now encountered more widely among Orthodox Zionist religious authorities.

In this article, we shall attempt to describe the mindset of the activists in the Movement for the Establishment of the Temple; to examine their struggle to change opinions on the question of the Temple Mount among the Orthodox public; to consider the manner in which they have coped with the Oslo Process – which is founded on the desire to achieve a compromise between Israel and the PLO, including on the issue of the Temple Mount – and to show how their ideas have begun to find currency among Gush Emunim rabbis in response to the peace process.

Since the occupation of the Temple Mount by Israel in 1967, during the Six Day War, the question of the status of this site has been the focus of a fierce interreligious dispute. In the wake of that war, Israeli governments have always sought to mitigate the tension raised by this subject, allowing the Muslim Waqf to maintain its control of the Temple Mount. Over the years, however, several attempts have been made by extremist Jewish groups to attack the mosques on the site. The leaders of the Jewish Underground (who were among the leading figures in the Gush Emunim movement) prepared operational plans to blow up the mosques, but their plans were foiled after they were apprehended in 1984. Another attempt was prevented that same year with the arrest of the "Lifta Underground," a group of newly-religious Jews who were profoundly influenced by kabalistic traditions, and who sought to destroy the mosques in order to pave the way for Jewish redemption. Mention should also be made of the fire set in the Al-Aqsa Mosque in 1969 by David Rohan, an evangelical Christian from Australia, who was inspired by his millennial beliefs.[1]

The question of the Temple Mount is highly sensitive, with far-reaching political and strategic ramifications. Avi Dichter, head of the Israeli General

1 Gershon Gorenberg, *The End of Days; Fundamentalism and the Struggle for the Temple Mount* (New York: The Free Press, 2000); Nadav Shragai, *Mount of Dispute* (Heb.) (Jerusalem: Keter, 1995) 159–82.

Security Service, has commented that the possibility of Jewish extremists launching an attack on the Temple Mount constitutes a key strategic threat to the State of Israel, and that it is right to be extremely concerned about such an eventuality.[2]

Before discussing the issue of the Temple Mount and the demand to change the status of the site, it is important to review the enormous changes that have occurred within Orthodox Judaism on the broader subject of messianism and Zionism. This theoretical discussion is important in order to understand the demand to build the Temple and to appreciate the unique nature of the phenomenon examined by this study.

The central foundation of classical Orthodoxy was the principle of passivity. According to Jacob Katz, all three types of Orthodoxy that emerged in the late nineteenth century in Germany, Russia, and Hungary shared this principle, which was a hallmark of Jewish society in the pre-modern era: "This was far reaching passivity with respect to long range planning for the future of the Jewish community." With the exile from its homeland, the Jewish people lost faith in its own capacity to engineer its redemption. This change could come only as the result of Divine and miraculous intervention. The modern era brought new opportunities for Jews – emancipation, emigration, and in 1948 – the establishment of a Jewish state. However, Orthodoxy – or more exactly, ultra-Orthodoxy – seemed reluctant to free itself from its pre-modern mentality, and refrained from taking a leading role in any of these enterprises. In the case of the Jewish national movement, the ultra-Orthodox leadership found theological justifications for its opposition. It is true that other voices could be heard, most notably those of Rabbi Abraham Yitzhak Hacohen Kook, but his support of Zionism was rejected by most of the ultra-Orthodox leadership.[3]

The dominant ultra-Orthodox theological position continued the tradition of passivity, and refused to consider the Zionist enterprise as connected to the process of redemption. For the most part, rabbinic literature did not envisage an interim state between exile and redemption, and in this sense Zionism constituted an illegitimate deviation from the course of history. Moreover, the theological interpretation adopted by some of the most extreme ultra-Orthodox elements, such as the Eda Ḥaredit and Neturei Karta, views Zionism as no less than the work of the Devil, aimed at confusing the Jews and diverting them from their path to redemption. Drawing on mystical and kabbalistic perceptions, the dramatic historical events undergone by the Jewish people – the Holocaust, the establishment of the State of Israel, and the subsequent dazzling victory in the Six Day War – were interpreted through the prism of

2 Avi Dichter, paper presented at Herzliya College, 16 Dec. 2003.

3 Jacob Katz, "Orthodoxy in Historical Perspective," *Studies in Contemporary Jewry* 2 (1986) 9–10.

a cosmic struggle between God and the diabolical forces of the Other Side, and all these events were seen as a manifestation of the growing force of evil. Those who took this approach argued that the Jewish people would be returned to its homeland and to sovereignty not by its own, but only by the Divine hand. Any attempt to "hasten the End" would actually delay the coming of the Messiah and the ultimate redemption. Accordingly, they were fiercely opposed to the Zionist entity, and refused to recognize it or to participate in its institutions. Aviezer Ravitzky has argued that while this group is considered to represent a small minority of ultra-Orthodoxy, its moral influence extends far beyond its inner circle.[4]

Orthodox Zionism (commonly referred to as Religious Zionism) continued the ideological approach of Rabbi Kook, coloring the development of the Zionist enterprise with a messianic dimension through its definition as the "the first stage of our redemption," and attaching innate religious significance to secular and even heretical actions. According to this approach, the time would come when secularity would give way to sanctity, and the final process of redemption would then be possible.[5] After the Six Day War, this school spawned the Gush Emunim movement. Comprised of Orthodox youth and the graduates of Orthodox Zionist yeshivot, Gush Emunim presented a much sharper version of this position, claiming that they knew God's will, and that by settling all the parts of the biblical Land of Israel conquered in the war, they could expedite the End and bring redemption nearer.[6]

Thus, within the reality of the State of Israel, Orthodoxy, which had begun as a passive doctrine, became an active and aggressive force, at least among some of its exponents. Manifestations of this change can be found not only within Religious Zionism, such as in Gush Emunim, but also in other sectors, such as the developments within the Chabad Hassidic movement since the early 1990s. The Chabad movement has become a key advocate of the Greater Land of Israel,[7] and has also been swept into a radical Messianic approach that identifies its late leader, Menachem-Mendel Schneurson, as the King Messiah. Many members of Chabad fervently anticipate his return from death and his ultimate coronation as Messiah. David Berger has even argued that the majority of Chabad shares this position, despite the fact that in theological terms it

4 Aviezer Ravitzky, "'Forcing the End': Zionism and the State of Israel as Antimessianic Undertakings," *Studies in Contemporary Jewry* 7 (1991) 34–67.

5 Dov Schwartz, *Belief at the Crossroads* (Heb.) (Tel Aviv: Am Oved, 1996); Dov Schwartz, *Religious Zionism between Rationality and Messianism* (Heb.) (Tel Aviv: Am Oved, 1999).

6 Gideon Aran, "A Mystic-Messianic Interpretation of Modern Israeli History: the Six Day War as a Key Event in the Development of the Original Religious Culture of Gush Emunim," *Studies in Contemporary Jewry* 4 (1988) 263–75.

7 Yitzchak Ginsburgh, one of the leading rabbis of the Chabad movement, now functions as a religious authority for the most radical elements of the extreme right. A doctoral thesis I am

is closer to Christianity than to Judaism, recalling the Christian doctrine that Jesus the Messiah was crucified, died, and resurrected, and will return at the end of history.[8] Additional manifestations of Orthodox extremism may be found in the increasing support among ultra-Orthodox circles for fundamentalist and theocratic ideologies such as that of the Kach movement. Neri Horwitz argues that the connection between religious-Zionist activism and ultra-Orthodox radicalism creates the potential for fundamentalism. He believes that the processes of fragmentation already at work within ultra-Orthodox society may provide a fertile breeding ground for the "fanatical potion," which blends the activism of Religious Zionism – without the restraint that comes from the identification of Israel as "absolute sanctity," and hence without the commitment to the State of Israel and its laws – with ultra-Orthodox radicalism, without the restraint of its former passivity.[9] A study of voting patterns among the ultra-Orthodox public in the Knesset elections suggests that this trend is expanding, leading to the systematic loss of votes for the ultra-Orthodox parties in favor of other parties. Thus, for example, the elections for the Sixteenth Knesset (2003) produced a high level of support among the ultra-Orthodox electorate for a political list identified with the Kach movement, followers of the late Rabbi Meir Kahane, who developed a fiercely nationalistic religious theology.[10]

The Movement for the Establishment of the Temple is another manifestation of the transformation that has been seen in the Orthodox world, and indeed takes this transformation one step further. Although the movement has its roots among the ultra-Orthodox public in Israel, its approach represents a fundamentalist, millenarian, and activist position more radical than that of Gush Emunim. Whereas the approach of Gush Emunim leaves room for the possibility that a transcendental experience will complete the process of

currently preparing is devoted in large part to Rabbi Ginsburgh and the circles over which he exerts influence.

8 David Berger, *The Rebbe, the Messiah and the Scandal of Orthodox Indifference* (London: Littman Library of Jewish Civilization, 2001).

9 Neri Horwitz, "Careful – Explosive!" (Heb.), *Meimad* 21 (2001) 15–18.

10 The results of the 2003 elections for the Sixteenth Knesset showed a considerable level of support for the Herut Knesset list among the ultra-Orthodox public. Baruch Marzel, one of the leaders of the Kach movement, was positioned in second place in the electoral list of Herut. In the settlement of Immanuel, Herut secured 14.2 percent of the votes. By way of comparison, United Torah Judaism received 32.1 percent and Shas 44.3 percent. In Betar Illit, Herut secured 7.2 percent, compared to 35.8 percent for Shas and 54.6 percent for United Torah Judaism. In the Geulah neighborhood of Jerusalem, which is also populated by ultra-Orthodox Jews, Herut secured just 2.4 percent of the vote. For further details of ultra-Orthodox voting patterns, see Neri Horwitz, *Jews! – The Shtetl is Burning: Torah Judaism between the 1991 Elections and the 2001 Elections* (Heb.) (Jerusalem: Floersheimer Public Research Institute, 2002).

mundane redemption, only parts of which are incumbent on humans,[11] the Movement for the Establishment of the Temple perceives the completion of the process of redemption in a totally independent manner, without Divine intervention. In common with Gush Emunim, the Movement for the Establishment of the Temple views the Zionist endeavor as an important step toward the ultimate redemption, but it does not confine itself to this, demanding progress toward the construction of the Temple, the reinstitution of the sacrifices, and the establishment of the Sanhedrin. According to its perspective, all these achievements must be secured through mundane means and by human endeavor, and certainly not through miracles or supernatural occurrences. Accordingly, the movement acts to prepare the vessels for the Temple, to pray on the Temple Mount, and to engage in intensive study and preparations ahead of the establishment of the Temple. Its activities, however, are not without a certain passivity. It acts quietly, almost surreptitiously, and explains its actions exclusively in religious terms. It does not claim that the construction of the Temple constitutes the ultimate realization of the Zionist enterprise, nor does it see the Temple Mount as the proper place for the Israeli institutions of government, as does the Temple Mount Faithful movement. Neither does it seek to remove the mosques from the Mount. Thus it represents a unique case of a fundamentalist movement that does not rely on passionate messianic rhetoric, and whose radical messianic arguments are presented in the ostensibly moderate demand to be enabled to observe as many commandments as possible (issues to which I shall return below).

Alongside the trends to religious extremism, the fear of messianic failure must also be taken into account. Here, too, the Movement for the Establishment of the Temple provides an additional and interesting case. Over its years of activity, the movement has been forced to address dramatic political developments in the shape of the Oslo Accords, in which different Israeli governments have de facto agreed to make concessions on the Temple Mount. The present study illustrates the manner in which this political move by successive Israeli governments created a counter-reaction in the form of an intensified aspiration to secure the Temple Mount and to show a higher level of commitment to the site. The fear of future changes unfavorable to their position led to further radicalization in an effort to avoid these changes. This article seeks to explain the manner in which this crisis led the thinking of the Movement for the Establishment of the Temple from the margins of religious life in Israel ever closer to its core. Its activities in the wake of the Oslo Accords enabled it to influence Orthodox Zionist rabbinical authority, particularly that of the Gush Emu-

11 Lilly Weissbord, "Gush Emunim Ideology – from Religious Doctrine to Political Action," *Middle Eastern Studies* 18, 3 (1982) 265–75.

nim rabbis, weakening the force of the halakhic ban on entering the Temple Mount, which was once considered an extremely grave prohibition.

The proposed research method is multidisciplinary, with an emphasis on historical research and with reference to historiographic discourse, combined with insights drawn from the fields of Jewish philosophy, and the sociology of religion. The preliminary study is based mainly on primary sources from the publications of the Movement for the Establishment of the Temple itself.

The Establishment of the Movement

The Movement for the Establishment of the Temple was founded in 5748 (1987) by a small circle of members. The initiative for the new movement came from a Belzer Hassid by the name of Yosef Elboim. Elboim broke away from Gershon Salomon's movement, the Temple Mount Faithful, and was joined by an ultra-Orthodox group from Jerusalem that referred to itself as "an association comprised of God-fearing persons, including rabbis and Torah sages."[12] This group was also joined by figures identified with the Kach movement. The initiative reflected a feeling that the existing public bodies working to permit prayer on the Mount, particularly the Temple Mount Faithful group, were not meeting their needs. There were various reasons for the split, including Salomon's dominating personality, and the fact that the Temple Mount Faithful movement was not an inherently or exclusively Orthodox religious movement. A further reason for the dissatisfaction with the Temple Mount Faithful related to Gershon Salomon's perception of the "Zionist question." Salomon argued that the Temple Mount is necessarily a symbol of Zionist – Jewish sovereignty, and accordingly should become the location of the Israeli institutions of government. Salomon attributed less importance to the question of the religious worship symbolized by the Temple, focusing instead on its function as a national symbol.

As an ultra-Orthodox Jew whose life was dedicated to religious worship, Elboim believed that the claim to the Temple Mount is first and foremost a religious commandment – "Make for Me a sanctuary that I might dwell among them" (Exodus 25:8). Salomon's belief in the need for the State of Israel to impose Israeli sovereignty on the Temple Mount, and to displace the Arab Waqf, led to activities such as public demonstrations and court petitions demanding that the members of the movement be permitted to pray on the Temple Mount on specific dates during the year. Due to the public nature of these hearings, the courts generally rejected his petitions, and permits were conditioned

12 From a letter inviting readers to join the movement, dated 25 Kislev 5748. The letter was attached to *Yibaneh Hamikdash* 2 (5748).

on police authorization, based on considerations relating to public security. The police consistently refused to permit the group to pray on the Temple Mount for these reasons.[13] Accordingly, the members of the Movement for the Establishment of the Temple decided to adopt a different tactic: eschewing publicity, they would hold orderly visits to the Temple Mount in order to pray on the site, in small groups and in coordination with the police. Elboim emphasized the differences between the movements: "In recent times, two paths to the Mount have been apparent. Path 1 is silent, difficult – and gets there. Path 2 is easy, loud – and is shattered. [. . .] Better for us a quiet and mournful visit to the Temple Mount than to sing at its gates and cheer at its walls."[14] Elboim believed that the physical Jewish presence on the Temple Mount, rooted in a religious commandment (and as distinct from any other Jewish presence, such as tourism) was vastly more important than public gatherings and demonstrations. To "conquer" the Mount, for Elboim, was to ensure a constant presence at the site, even if this was in relatively small numbers and almost completely without publicity.

The Movement for the Establishment of the Temple decided that its principle goal was to win souls for its approach within the ultra-Orthodox community, and to create change within that sector. The expectation was that a change of direction following their activities in this sector would undoubtedly have the force to spark changes among other groups. The challenge undertaken by the movement was far from simple, given the conservative tendencies of the ultra-Orthodox public, who reject changes in religious behavior. As a result, the movement's activities centered mainly on informational efforts, with a particular emphasis on finding halakhic considerations supporting activities relating to the Temple Mount, such as praying on the Mount and engaging in other religious activities there.[15] After its establishment, the movement published a monthly journal entitled *Yibaneh Hamikdash* (Let the Temple be built), which appeared for twelve years and included discussion of halakhic aspects permitting Jews to ascend and enter the Temple Mount.[16] Another im-

13 For discussion of the legal and political struggle relating to the demand that Jews be permitted to pray and worship on the Temple Mount, and, in particular, discussion of the activities of the Temple Mount Faithful movement in this context, see: Shmuel Berkowitz, *The Wars of the Holy Places: The Struggle for Jerusalem and the Holy Sites in Israel, Judea, Samaria and the Gaza Strip* (Heb.) (Or Yehuda: Hed Artzi, 2000) 85–109.

14 Yosef Elboim, *Yibaneh Hamikdash* (Heb.) 8 (5748) 7–8.

15 With the exception of individual prayers, the only religious ritual the movement managed to hold on the Temple Mount was the "Pouring of Water" – an ancient ceremony relating to the duties of the High Priest during the pilgrimages at the Festival of Tabernacles while the Temple was standing. These activities were undertaken in a clandestine and secret manner. The movement also attempted to perform the Passover sacrifice on the Temple Mount, but without success. See Nadav Shragai, *Mount of Dispute*, 149–55.

16 The monthly *Yibaneh Hamikdash* became a key tool for the movement in disseminating its

portant activity was to arrange orderly and regular visits to the Temple Mount, without provocation and with virtually no public attention, in order to hold prayers on Tuesdays and Saturdays. These visits continued until the Temple Mount was closed to Jews following the outbreak of the Al-Aqsa Intifada in September 2000, and were reintroduced following the opening of the site in November 2003. The movement also established a religious court (Beit Din) to issue halakhic rulings; organized public activities, including petitions and lobbying; encouraged study of the religious laws relating to the Temple in various frameworks; practiced and prepared for Temple worship; and attempted to train priests and Levites and to prepare the priestly garments.

THE ARGUMENT OVER THE NAME AND GOALS OF THE MOVEMENT

The new group engaged in internal soul-searching around the question of the difference between itself and the Temple Mount Faithful, and around the methods it should adopt in order to promote its goals. Since the group was comprised of individuals who were reluctant to draw attention to their ideas among the sector from which they came, "due to the prohibition imposed by the rabbis" (as discussed at length below), one may understand the decision taken at the first gathering in August 1987 to act through interpersonal contacts and to avoid broad publicity. By contrast, members who did not come from the ultra-Orthodox community, and who were more closely identified with Kach, argued that aggressive informational approaches should be adopted, including paid advertisements, in the style of the Temple Mount Faithful.[17]

An additional argument that arose among the members of the movement from the earliest stages related to the name of the group. From the outset, some members expressed the view that stating "the establishment of the Temple" as the goal of the group was presumptuous and liable to discourage others from joining the movement. Others, however, argued that concealing the true purpose of the group made it no different from the Temple Mount Faithful, whose name also avoided mentioning the establishment of the Temple.[18] Yosef

ideas. The journal is highly informative in terms of the opinions and methods of the movement. The importance attached by the group to writing and documentation is shown by the fact that the launching of the journal was the second decision taken by the group, long before it decided on its name or decided to register as an association with the Registrar of Associations.

17 The former view was represented by Avraham Isaacs and Yosef Elboim. The latter view was supported by Yoel Lerner. *Yibaneh Hamikdash* 1 (5748). Lerner would later resign from the movement following his failure, as chairperson, to steer it toward a more public approach, and because of the tendency of the members to avoid the limelight and prevent publicity relating to their activities.

18 *Yibaneh Hamikdash* 1 (5748) n. p.

Elboim suggested that the group avoid choosing any name, at least until seventy members joined – the same number as in the Great Sanhedrin.[19] However, the debate over the name was influenced by an unexpected consideration. The members' application to be registered at the Registry of Associations was rejected due to "fear of misleading the public." It emerged that the attorney-general at the time, Meir Shamgar, issued instructions that associations to build the Temple should not be registered, arguing that it was an insult to the public to suggest that "these are the builders of the Temple." Accordingly, the formal name of the group was amended to the "Association for Research and Information for the Establishment of the Temple."[20]

THE MOVEMENT FOR THE ESTABLISHMENT OF THE TEMPLE, AND KACH

An important characteristic of the Movement for the Establishment of the Temple is its rejection of physical or verbal violence. From the earliest days, the members took care to avoid insults or inflammatory statements. Their writing was sometimes pained and impassioned, but they were generally careful to adopt a respectful tone and engage in civilized debate. On occasions when articles appeared in the movement's publications that included offensive remarks, this was always followed by a demand for apologies and an emphasis on the need to show respect for rabbis, publicists, and religious and political leaders, even those who were far from being supporters of the movement's approach. The members of the movement realized that the public image of activists on the issue of the Temple Mount was that of a dangerous and violent minority; accordingly, they must be seen to be balanced and dignified, and under no circumstances aggressive or eccentric.

These principles were tested during a heated debate with Kach, a movement that had similar ideological beliefs and from whose ranks many of the supporters of the Movement for the Establishment of the Temple came. Kach's founder and head, Meir Kahane, was a supporter of the Movement for the Establishment of the Temple, and even permitted the organization free use of printing equipment to which he had access.[21] Moreover, Yoel Lerner, the first chairman of the Movement for the Establishment of the Temple, was on close terms with Meir Kahane. After Kahane was murdered in 1989, his son, Benjamin Zeev Kahane, assumed the leadership of Kach,[22] and entered into a passionate

19 Yosef Elboim, "Choosing A Name for Our Group" (Heb.), *Yibaneh Hamikdash* 2 (5748) n. p.

20 *Yibaneh Hamikdash* 16 (5749) 22–23.

21 *Yibaneh Hamikdash* 20 (5749) 1.

22 Kach later split, and B. Z. Kahane became leader of a faction known as Kahane Chai. For further details on the split, see Ehud Sprinzak, *Between Extra-Parliamentary Protest and Terror:*

ideological debate with the members of the Movement for the Establishment of the Temple, arguing that his father's legacy, focused on the struggle against "the Desecration of God's Name," implied a struggle against those who oppose the right of the Jews to the Land of Israel.[23] Accordingly, he believed that the focus should be on a negative campaign against the Arabs, because of their control of the Temple Mount, whereas the Movement for the Establishment of the Temple adopted a positive approach in its publicity, with the aim of changing opinions within the Orthodox community in Israel. Kahane sent an article to the editorial board of *Yibaneh Hamikdash* in which he attacked members of the movement

> who are extremely cautious to avoid creating the impression that it [the establishment of the Temple] will be 'at the expense' of the Arabs. They use all kinds of ways to argue that the Arabs will not be affected, and that this supposedly does not require any conflict with them. [. . .] In the war against the desecration of God's name, and in the war against this national disgrace, [. . .] without a struggle against the *Sitra Achra*, and without a struggle against evil, we cannot reach good and reach construction. If someone goes up to the Temple Mount and looks toward that holy place, and does not return with the awareness that we must wage a fierce war against this desecration, against this disgrace, and thereby come to construction – what is he fighting for?![24]

Another article, by Pinchas Gil from the Kahanist Yeshiva of the Jewish Idea, raised an even more radical argument: the required religious war should be not only against the Arabs, but also against

> the state that adorns itself with the name Israel. After all, this state is possibly the greatest obstacle that currently stands in the path of the Jewish people to redemption [. . .] and accordingly nothing sacred can be done

Political Violence in Israel (Heb.) (Jerusalem: Jerusalem Institute for the Study of Israel, 1995) 124–26.

23 Accordingly, the "Desecration of God's Name" in Kahanist thought comes to be synonymous with the very presence of non-Jews in the Land of Israel. Those who deny the Jewish right to the Land of Israel effectively deny the exclusive authority of God, and therefore desecrate His name. Accordingly, action to sanctify God's name means to remove non-Jews from Israel. For details on the ideology of Kach, see Aviezer Ravitzky, "The Roots of Kahanism: Consciousness and Political Reality," *Jerusalem Quarterly* 39 (1986) 90–108; Ehud Sprinzak, *The Ascendance of Israel's Radical Right* (New York: Oxford Univ. Press, 1991) 211–50.

24 Benjamin Zeev Kahane, "The Temple Mount – A Religious War" (Heb.), *Yibaneh Hamikdash* 45 (5751) 7–10.

> on the Temple Mount without fighting those forces of the *Sitra Achra* that control it – both the Arabs and the State of Israel.[25]

The response to the arguments presented by the writers from the Yeshiva of the Jewish Idea emphasized and accentuated the approach of the Movement for the Establishment of the Temple. Responding to Gil, David Shafir, one of the founders of the movement, wrote:

> The members of the "gangs" that control the state did not seize control from you, they simply moved first and entered the vacuum left by you and your like in your sins, so what cause have you to complain about them? [...] It is impossible to succeed by speaking loftily of the need to remove the mosques until you have 'done well with the people' and allowed them to taste something of the light and vision of the future Temple, which indeed includes the mending of the entire world to good.[26]

B. Z. Kahane was quick to respond to this argument, further sharpening the principled argument between the two groupings. According to Kahane, the verse "avoid evil and do good" proves that the proper order of things is to condemn the wicked (by which Kahane meant the Israeli administration and the Arab control of the Temple Mount), and only then to engage in positive activities in the field of information. "Only by condemning the wicked and those who destroy, willingly or under duress, can we reach the government in this state and this people." In any case, while it might be possible to postpone the construction of the Temple, as far as the mosques on the Temple Mount are concerned:

> It is obvious to me that if we do not speak of deleting the desecration of God, we have missed an essential and principal stage, and it is very doubtful what we have achieved. While the building may be postponed for a while, the deletion of the desecration must not be postponed.[27]

Responses to Kahane's article were published by Elitzur Segal (who was associated with Kach and taught at a college in the settlement of Tapuah, home to many supporters of the Kach movement) and Yosef Elboim, both key figures in the Movement for the Establishment of the Temple. Segal explained that, as he saw it, the problem was not how to change the system of government,

25 Pinchas Gil, "Down with the Occupation!" (Heb.), *Yibaneh Hamikdash* 48 (5752) 7.

26 David Shafir, "Sanctifying the Name is Greater than Desecrating the Name" (Heb.), *Yibaneh Hamikdash* 48 (5752) 8–11.

27 Benjamin Zeev Kahane, "Lovers of God – Hate Evil" (Heb.), *Yibaneh Hamikdash*, 51 (5752) 27–29.

since even if Kahane were to come to power the next day, "I doubt whether he would be able to move all the rusty machinery of government overnight." Government is a reflection of the people, and the popular objection to the idea of the Temple was widespread and found in all sections of the populace. Accordingly, Segal explained, the solution lies in slowly creating a basis of human consciousness that will eventually be able to confront the government "if it still continues with its opposition."[28] Yosef Elboim compared the activities of the Movement for the Establishment of the Temple to the First Aliyah period: "This is the way of revolution: they seek legitimacy, they struggle to increase their share, then they compete for first place and eventually they push the alien beyond the scope of the law." Commenting on Pinchas Gil's article "Down with the Occupation!" Elboim wrote:

> Were the weapon in my hand ready for action, where would I direct it? Against those who sit on the seat of executive in the government, or against those who sit on the throne of the law, or perhaps against those responsible for issuing official religious law on behalf of the authorities of state? Or maybe against the various private religious courts, or perhaps even against those unfortunates who sit on the Opposition – or maybe it would be easier to make a list of those who are not targets? In brief [. . .] no good will come of this for our deserted Temple. [. . .] Go out and realize that most of those who hear of the activities to restore our blessed Divine Presence to Zion are terrified by the idea that they must join those who blow up mosques – almost the sole association that the Temple inspires in them, since they have not yet understood the construction of the Temple – and this only leads them to avoid anything to do with the Temple.

Accordingly, Elboim concludes, there are no short cuts, and the focus must be on education and information, "and not on angry contention that leads to despair."[29]

The ideological argument with the members of Kach emphasized the character of the movement. The Movement for the Establishment of the Temple did not aim to be another grouping of "mosque busters," but rather to work through education and opinion forming in order to change public consciousness regarding the need to build the Temple. The movement chose this approach from the outset, and over the years it enabled several achievements,

28 Elitzur Segal, "Looking for the Way" (Heb.), *Yibaneh Hamikdash*, 51 (5752) 30–31.

29 Yosef Elboim, "Understand This and We Shall Rejoice in His House" (Heb.), *Yibaneh Hamikdash* 51 (5752) 31–35.

most notably influence on Orthodox rabbinical decisions relating to the annulment of the taboo against Jews entering the Temple Mount. The movement also chose to distinguish itself from the approach taken by the Temple Mount Faithful: rather than demonstrating the claim to the Temple Mount, the Movement for the Establishment of the Temple was primarily interested in finding halakhic solutions to the prohibition against entering the site and against the reinstatement of the sacrifices. It was precisely this tactical choice that enabled it to make headway.

The Ideology of the Movement

The ideology of the Movement for the Establishment of the Temple focuses on offering a religious interpretation for historical and political reality. In this respect, it is similar to other fundamentalist religious streams that view the Scriptures as absolute truth, and seek to find allusions to current affairs in their interpretation of these sources. In many cases, fundamentalist movements believe that they know God's will, and therefore know the proper way to change the state of the world God created. This explains why fundamentalist movements are also often millenarian in nature.[30]

The rhetorical style of the Movement for the Establishment of the Temple preserves the style of ultra-Orthodox exegesis, but uses this style to present an alternative historiographic narrative. Israel Bartal argues that the autonomous ultra-Orthodox historiography was developed as an additional tool in the struggle against modernity, including modern historiography. Ultra-Orthodox historiography attacks the trend toward change in religion and the Enlightenment movement, using history as a tool.[31] The Movement for the Establishment of the Temple also uses historiography as a polemical tool, but one that is directed against ultra-Orthodox historiography. Accordingly, this case study addresses the issue of how religious groups reformulate traditional religious texts and beliefs for contemporary and new purposes.

The Prohibition against Entering the Temple Mount

The activists of the Movement for the Establishment of the Temple, numbering between 60 and 100 individuals, stood firm against the general position of the ultra-Orthodox community, including almost all its *poskim* (those who rule

30 James Barr, *Fundamentalism* (London: SCM Press, 1981), 1–11; Hava Lazarus-Yafeh, "Contemporary Fundamentalism: Judaism, Christianity, Islam" in Laurence J. Silberstein, ed., *Jewish Fundamentalism in Comparative Perspective – Religion, Ideology, and the Crisis of Modernity* (New York: New York Univ. Press, 1993) 49–50.

31 Israel Bartal, "True Knowledge and Wisdom: On Orthodox Historiography," *Studies in Contemporary Jewry* 10 (1994) 178–92.

on halakhic matters), regarding one of the gravest prohibitions imposed on the public: the prohibition against entering the Temple Mount. After the destruction of the Second Temple in 70 C.E., the precise measurements of the site were lost, including the position of the *Chayil* – the Divine dwelling place (Holy of Holies). Entry into this area was absolutely forbidden, with the exception of the High Priest on the Day of Atonement, after a rigorous process of ritual purification. Since the position of the *Chayil* is unknown, it was ordered that the entire area of the Temple Mount must not be entered by Jews, and those disobeying this prohibition were liable to *Karet* – the Divinely-imposed death penalty. The religious law against entering the Temple Mount is supported by countless rulings.[32] The Israeli Chief Rabbinate issued a similar prohibition immediately after Israel took control of the Temple Mount in the Six Day War. This ruling also set a precedent, in that the leaders of the non-Zionist Orthodox establishment in Israel joined together with the Israeli Chief Rabbinate.[33]

It must be acknowledged, however, that the question of the Temple Mount is more complex than these rulings might suggest. Until the tenth century, Jews were permitted to enter the area, and there was probably a synagogue on the Temple Mount. From the time of Khalif Omar I in the seventh century, through the end of the tenth century (and, according to some sources, as late as the death of Maimonides in the mid-twelfth century), a house of prayer and study stood on the Temple Mount, established with the permission of the Muslims and attended by Jews. The synagogue was first situated in the place where the Al-Aqsa Mosque now stands, and, after the Jews were expelled from this site, they were permitted to build another synagogue on the Temple Mount. During this period, Jews also served in the mosques on the Temple Mount and helped maintain the sites.[34]

32 A list of thirty halakhic rulings against entering the Temple Mount was collected by the Ateret Cohanim Yeshiva and published in the booklet (Heb.) *Iturei Kohanim* 16 (5746).

33 After the Six Day War, the Chief Rabbis issued a statement prohibiting Jews from entering the site out of concern that the sanctity of the area might be impaired. Sixty leading rabbis from the ultra-Orthodox community signed a ruling prohibiting Jews from entering the Temple Mount. A copy of the ruling appears in *Iturei Kohanim* 16 (5746). Signatories included the heads of both "Lithuanian" and Hassidic yeshivot, Sephardi rabbis, and the head of the Mercaz Harav yeshiva, Zvi Yehudah Hacohen Kook. This statement was reiterated on 24 Shvat 5746, probably in response to the ruling by Rabbi Shlomo Goren that Jews may enter certain parts of the Temple Mount. The reiteration once again warned that "due to the severity of its sanctity, even in its destruction, no person must enter the area, since the borders of the Temple area have not been clarified, and nowadays we have no possibility of purification (due to the unavailability of ashes from a red heifer, the sole method of adequate purification) and this is one of the gravest prohibitions that stand until the coming of our Righteous Messiah."

34 Berkowitz, *Wars of the Holy Sites*, 11–13; for a detailed bibliography on the subject, see footnotes 27–29, 43 therein.

When the members of the group began their activities, some were initially surprised that they were not attacked within their own communities for adopting a stance that contradicted such a serious prohibition. It was not long, however, before Yosef Elboim experienced such an attack. One morning in 1989, as he arrived at the synagogue where he usually attended morning prayers, he was not allowed to join the quorum of worshippers, on the grounds that, as someone who visited the Temple Mount, he was liable to *Karet*. Excommunication was imposed on him, and the public were forbidden to talk to him or to accept him as a worshipper at any synagogue. His humiliation was compounded when he was forcibly removed from the minibus he regularly used to reach his place of work. The mezuzot were torn off the entrance to his home and the door was set on fire. The Beit Din Tzedek of the Eda Ḥaredit even published a "Torah Warning" not to assist "these sinners and corrupters." A war of *pashkavil*s (wall posters) erupted in the streets of the ultra-Orthodox Jerusalem neighborhoods. Some posters urged the residents to condemn "those who willfully transgress against a prohibition incurring *Karet* and go up to the Temple Mount," while others (placed on Elboim's behalf) presented contrary arguments: "If we have forgone the Temple Mount, let us also forgo its exterior – the Western Wall." The episode ended after a bomb was planted in the home of Rabbi Simcha Waldenberg, head of the "Modesty Guard,"[35] which had led the excommuncation of Elboim. It was quietly hinted to Waldenberg that the bomb was planted by members of Kach who were on close terms with the Movement for the Establishment of the Temple.[36]

EXILE AND REDEMPTION

Jewish existence is encapsulated in two dichotomous rabbinical perceptions – exile and redemption. Since the destruction of the Second Temple, the Jewish people has been in exile. Rabbinical exegesis views this exile as spiritual as well as physical. The End of Exile can come only through prophetic leadership and miracles leading to ultimate and complete redemption. The Zionist movement opposed the traditional framework that sanctified political passivity and awaited a miraculous End to the era of Exile. Zionism sought to achieve the return of the Jewish people to Zion – a transition that had traditionally been considered one of the ultimate stages of the End of Exile, and to establish a political entity in the Land of Israel, through pragmatic human endeavor in the mundane world. The rejection of basic Orthodox norms regarding the perception of redemption, particularly when presented by irreligious Jews who attacked traditional values, provoked fierce opposition among the Orthodox leadership that began to emerge during the late nineteenth and early

35 A body enforcing moral norms within ultra-Orthodox society.

36 The details of this affair appear in *Yibaneh Hamikdash* 18 (5749) 9–22.

twentieth century. This opposition found theological expression in the argument that the establishment of the State of Israel was merely the extension of exile, albeit in the Holy Land.

The Movement for the Establishment of the Temple sought to challenge this perception, and to prove to the leadership of the ultra-Orthodox community that it was possible to move from exile to redemption without abandoning the religious commandments, by accepting personal responsibility and acting within the mundane world, while at the same time observing every major and minor commandment. This would be possible if there were a religious and political transformation within the State of Israel, and the force and pinnacle of this transformation lay in the demand for the Temple – a symbol powerful enough to counter and overcome what they perceived as an empty and valueless democracy.

The messianic passivity that characterized traditional Judaism in the Diaspora was justified in theological terms by the oath sworn to God by the Children of Israel in Song of Songs 2:7: "I charge you, O ye daughters of Jerusalem, by the roes, and by the hinds of the field, that ye stir not up, nor awake my love, till it please." Interpreting this verse, the *Midrash* comments: "He swore Israel not to rebel against the sovereigns, and not to 'force the End,' and not to reveal their mysteries to the nations, and not to ascend up the wall from Exile."[37] The practical significance of this oath for the Jewish people is the strict prohibition against rebelling against the nations that host the Jews in exile; a prohibition against calculating when exile will end; and a prohibition against collective migration to the Land of Israel. These prohibitions sanctified Jewish life in exile, and prevented Jews from associating to reinstitute Jewish sovereignty in the Land of Israel. Only God would do that, through miraculous acts.

Rabbi Yoel Teitelbaum, leader of the Satmar Hassidic sect, which is the most radical element of ultra-Orthodox society, draws on theological insights in order to argue that Zionism is an overt case of rebellion against God. The three prohibitions noted above are not a tactical provision intended to protect the Jews and prevent any temptation to act rashly while they were in exile. Rather, these prohibitions are a substantive manifestation of Divine leadership and the Divine providence of the Jewish people. Accordingly, Zionism and the State of Israel are a rebellion against God, and must not be recognized in any circumstances. The Satmar rabbi, who sought to find reward and punishment in all human acts, viewed the Holocaust as a grave punishment for the Zionist rebellion against the ideas embodied in the oaths, which he transformed into a fundamental principle of faith. Those Zionists who "force the End," ascended "up the wall" from exile and rebelled against the familiar order

37 *Shir Hashirim Rabba* 2:7.

of things and were guilty of the terrible Divine punishment manifested in the Holocaust. It was not exile that collapsed in the Holocaust, but Zionism that led to the abandonment and desertion of Jewish lives.[38]

It was this fundamental argument that was challenged by the members of the Movement for the Establishment of the Temple, and particularly by Yosef Elboim. According to their perspective, blame for the Holocaust lay not with the Zionist rebels against God, but rather with those who remained passive and expected the miraculous Kingdom of God to arrive from the skies. This conclusion had far-reaching consequences regarding the nature of the messianic process.

In 1917, the British Foreign Minister, Lord Arthur James Balfour, announced that the government of Great Britain viewed with favor the prospect of establishing a national home for the Jewish people in the Land of Israel. This declaration was ratified by the countries that emerged victorious from the First World War. The Movement for the Establishment of the Temple argued that the Balfour Declaration was tantamount to the annulment of the three traditional oaths. After the nations of the world ratified the declaration, under Divine providence, the Jews should leave their places of exile and ascend to the Land of Israel and establish their own state. In effect, this process was perceived as a new oath God required from the Jewish people – to leave exile and enter the stage of redemption. This oath was made with the approval and support of the nations of the world, so that it should not be considered rebellion against the nations or "forcing the End." According to the principle of reward and punishment, the members of the Movement for the Establishment of the Temple now interpret the Holocaust as a punishment for the failure by Orthodox Jewry in the Diaspora to respond to the new Divine oath:

> It is true that we are educated to believe that the Holocaust was the fault of the Zionists, who threw off the Divine yoke and 'ascended up the wall' and infringed the three oaths, but I have always been bothered by some questions. If the Holocaust was due to the Zionists, how did it transpire that the Zionists were so successful, and built us a splendid country and even absorbed the refugees of those *Zaddikim* (righteous men) who refused to participate in all these transgressions, while precisely those who had no part in the transgressions were all killed in the sanctification of His name like lambs to the slaughter? I also wonder why they speak of the three oaths and 'ascending up the wall.' We have all heard of a Jew by the name of Herzl, who acted and performed much in order to estab-

38 Menahem Friedman, "The State of Israel as a Religious Dilemma" (Heb.) *Alpayim* 3 (5751) 59–60; Aviezer Ravitzky, *The Revealed End and the Jewish State* (Heb.) (Tel Aviv: Am Oved, 1993) 91–92.

> lish a Jewish state in the Land of Israel, and it doesn't say anywhere that he carried weapons or even a small pistol. All his work was aimed at securing permission from the gentiles, until the Balfour Declaration came to fruition. [. . .] So where is the 'ascending up the wall' here?[39]

Thus Zionism has a cosmic destiny, and those who fail to see this, and who await miraculous redemption, pay an enormous price for their blindness – a blindness that is the lot not only of the Orthodox public, but also of the Zionist enterprise itself. The Zionists correctly interpreted God's new will, manifested in His intent to remove the Jews from exile and bring them into the stage of redemption. However, their redemption took the wrong course. God's intention was not to make the Jews into "a nation like any other," as the Zionist slogan promised; rather, He wished the Jewish people to remain the Chosen People. The redemption was not the establishment of a "safe haven for the Jewish people"; religious redemption entails the re-establishment of the biblical Kingdom of Israel, in which the Jewish people might worship their God in the fullest and most complete manner, by observing all 613 commandments.

This theological exegesis enables Yosef Elboim to consider himself an authentic Zionist. While the Zionists misinterpreted the Divine message they received, those who followed the true path of religious redemption, by observing all 613 commandments, were the true Zionists and agents of God. The value system of reward and punishment serves only to reinforce these theological perspectives. If God rewards those who follow His path – which explains why the Zionists have so far secured the upper hand, while Diaspora Jewry suffered the Holocaust – if the Zionists deviate from a path that ultimately leads to the Temple Mount, they will lose their supremacy and they, too, will be punished by a further Holocaust. A further lesson drawn by Elboim and his fellows from this world view is that the individual must be pro-active. Elboim completely negates passive expectation of miracles and supernatural processes. Accordingly, if God's mission is not being realized, for whatever reason, the "man on the street" must take responsibility and remedy the situation.[40] These conclusions were formulated during the period of the Oslo Accords, when the Israeli governments entered into a process of compromise

39 Dov Elboim, "A Conversation with a Well-Known *Admor* in Bnei Brak" (Heb.), *Yibaneh Hamikdash* 30 (5750) 31. The author is the uncle of Yosef Elboim.

40 "Over the past century, Heaven has taught us that success smiles on those who take the initiative in our land, while those 'Sages' who sat still suffered a total failure. [. . .] Even ignoramuses know that in our world, the 'world of action,' mundane actions cause sublime actions. [. . .] Even after the sea miraculously parts, passive observation is not enough – one must enter the sea thereby." Yosef Elboim, (Heb.), *Yibaneh Hamikdash* 22 (5750) 33.

and agreed to divide the Land of Israel with the PLO as the Palestinian regime. This process was also expected to lead to a compromise on the Temple Mount, something that was perceived as a profound threat by the activists of the Movement for the Establishment of the Temple.

A further argument for the need to annul the oaths came from a halakhic obligation. It was argued that the oaths, which are drawn from the Aggadic literature, have an inferior status relative to binding *halakhah*, such as the commandment to build the Temple. Commandments certainly have a greater weight in the Jewish religion than legends, so that the commandment to build the Temple takes precedence over the legend of the oaths. Yosef Elboim explains: "Legends do not have the force to waive a commandment. And there can under no circumstances be a contradiction between legends [. . .] and a halakhic ruling relating to the commandment and obligations required of people in the present."[41] Israel Ariel, the founder of the Temple Institute and a graduate of the Mercaz Harav yeshiva, who was ranked in second place in the Kach list for the Knesset elections of 1981, reinforces this argument:

> The Torah is commandments, and commandments must be observed. Legends come to serve the commandments and to strengthen performance of the commandments. This is why the Holy One, Blessed be He, gave us intellect – to strengthen and observe the commandments. As long as the content of the world of faith increases God-fearing behavior and observance of the commandments, and the commandments of the Torah are respected in full, then *Aggada* serves *halacha* and the sublime content invigorates the performance of the commandments. But if the world of *Aggada* becomes a tool for providing excuses not to perform the commandments, [. . .] if the *Aggada* starts to take precedence over the *halacha*, this is not Torah or *halacha*, this is nothing – this is devastation.[42]

APOCALYPTIC REDEMPTION AND NATURALISTIC REDEMPTION

The traditional Jewish sources reflect different perceptions of messianic redemption. Our discussion of these perception will adopt the definitions proposed by Dov Schwartz, which distinguish between apocalyptic and naturalistic messianisms.

Apocalyptic messianism is not merely "miraculous" or "supernatural," but refers to a profound and basic transformation in the cosmos, amounting to

41 Yosef Elboim, "Renewing the Worship in This Time" (Heb.), *Yibaneh Hamikdash* 34 (5750) 4.

42 "Two Thousand Years in One Minute – An Interview with Rabbi Israel Ariel" (Heb.), *Or Chozer* 7 (5751), reprinted in full in *Yibaneh Hamikdash* 45 (5751) 18–19.

its very demolition and reconstruction. Divine providence plays a crucial role in a dazzling messianic sequence with strong mythological overtones. Naturalistic messianism challenges the assumption that the end of the world is a requirement for redemption. According to this approach, hope should not be abandoned that this present world can be repaired, and accordingly it is wrong to seek to establish a new world on the ruins of the present one. This approach lessens, and sometimes completely removes, direct Divine intervention as a force in the process of redemption.

The visions in the biblical, talmudic and midrashic sources prophesied a day of vengeance and reprisal, and anticipated a totally transformed world for those who fear God (and, in most cases, only for the Jews among them). A popular perception anticipated a great and terrible Day of the Lord on which He would wreak vengeance on the gentiles for the suffering they had caused to His Chosen People. Intellectual Judaism struggled to counter this dramatic approach through authorities (such as Maimonides, the Rashba, and others) who confronted the apocalyptic stream. An effort was made to soften the messianic descriptions, and to give them a universal and enlightened quality. The apocalyptic approach despaired of the potential of this world to bring redemption, and instead established an imaginary new world. Apocalyptic messianism is collective, and the transformations it predicts are of a public nature. It pays less attention to individual, intimate redemption and does not discuss it as a key factor in the process. By contrast, the naturalistic approach believes that the messianic era will occur within history, and not on its collapse. The world will continue to function normally, and the essence of redemption will lie in the establishment of a just authority and society – a future world that will devote its energy and resources to cultural development and to spiritual and intellectual productivity.[43]

The position presented by David Berger differs slightly from that of Schwartz. According to Berger, it would indeed be expected that naturalism

43 Dov Schwartz, *The Messianic Idea in Israel* (Heb.) (Ramat Gan: Bar Ilan Univ. Press, 1997) 9–12. Amos Funkenstein seeks to define apocalyptic messianism as "passive" messianism, since the expectation is that it will begin through Divine intervention, whereas naturalistic messianism is defined as "active" and committed to human action: Amos Funkenstein, *Maimonides: Nature, History and Messianic Beliefs* (Tel-Aviv: Modesbooks, 1997) 74–75. In my opinion, the literature supports the conclusion that the active phenomena of current messianism often reflected quintessentially apocalyptic motives; accordingly, it is erroneous to refer to the latter approach as "passive." Gershom Sholem argues that the Jewish messianic episodes of medieval times were apocalyptic in nature: Gershom Sholem, "Toward an Understanding of the Messianic Idea in Israel" (Heb.) in *Devarim Bego* (Tel Aviv: Am Oved, 5736) 168–69. An example of an active and apocalyptic messianic episode in recent years is discussed in: Motti Inbari, "Uzi Meshulam's 'Mishkan Ohalim': A Contemporary Apocalyptic Messianic Sect in Israel," *Studies in Contemporary Jewry* 17 (2001) 74–87. Accordingly, I believe that the definition offered by Schwartz is preferable.

would temper messianic tension. In modern times, however, it is, ironically, naturalism that has created such tension and encouraged national messianic fervor rather than encouraging individual processes of redemption. Maimonides' rationalist approach to redemption actually inflamed messianic passion, rather than cooling it. If the Messiah is not to appear on heavenly clouds; if God's wars must be fought in the literal sense of the word; if the Temple does not descend ready made from the skies; if the Sanhedrin must give its approval before the Redeemer comes – then human action is clearly needed in order to realize the hope of redemption. "This conclusion is so evident and inevitable that some researchers and thinkers see Maimonides, as it were, as a guide for Religious Zionism. Despite the logic in this approach, I believe such intentions were far removed from Maimonides himself." Berger believes that it was not Maimonides' intention to present a moderate activist approach. "I believe that what we have before us is a paradoxical vision with important ramifications. The rationalist seeks to moderate messianic energies, but despite himself sometimes exacerbates these energies."[44]

These differing approaches fueled the debate between the members of the Movement for the Establishment of the Temple and those members of the ultra-Orthodox leadership who held the majority view. The basic position of the movement was that one should not await an overt miracle, but use mundane tools to accelerate redemption. They believed that this was both feasible and permissible in halakhic terms.

Maimonides devotes the last chapters of his halakhic treatise, *Mishneh Torah*, to the subject of redemption. As a rationalist, Maimonides rejects apocalyptic and miraculous expectations of redemption, which he views instead as a gradual process dependent on the actions of the public. Numerous interpretations of these two chapters have been offered. Some saw them as an attempt to neutralize and even negate the messianic idea,[45] while others drew on them as a justification for messianic activism.[46] David Hartman notes that in Maimonides' discussion of the laws relating to kings and wars, he states that the King Messiah will realize the full scope of the content of Torah, including the sacrifices and the construction of the Temple. The King is not an emissary declaring a radical change in natural order; neither does he announce the end of history. Rather, he realizes the ideal of establishing a kingdom adminis-

44 David Berger, "On the Ironical Results of Maimonides' Rational Approach to the Messianic Era" (Heb.), *Maimonidean Studies* 2, (1992) 1–8.

45 For example G. Sholem, *Devarim Bego*, 178–88.

46 An enlightening example of the use of the works of Maimonides to justify messianic activism may be found in David Berger's studies of the Chabad movement: *The Rebbe, the Messiah and the Scandal of Orthodox Indifference*. A further example of activism appears in the thought of Rabbi Zevi Hirsch Kalischer. See Jody Elizabeth Myers, *Seeking Zion: The Messianic Ideology of Zevi Hirsch Kalischer, 1795–1874* (Ph.D. diss., Univ. of California, Los Angeles, 1985) 23–30.

tered in accordance with the Law of Moses. The messiah is a tool for securing the ideal of the Torah. Accordingly, the *halakhah* will not be abolished in the messianic era: on the contrary, it will be realized in full. In the *Mishneh Torah*, messianism is elaborated primarily in terms of the significance of a halakhic society, rather than in the emergence of a supernatural society by means of a predetermined Divine plan. It is the commitment to the 613 commandments that creates the need for an autonomous, messianic political framework.[47]

The Movement for the Establishment of the Temple presents essentially the same argument: God gave the Jewish people the 613 commandments so that they could be observed. As long as the Jews lived in exile, objective reasons prevented their observing all the commandments. Once they have returned to their own land, however, they have the capacity (at least theoretically) to observe all the commandments, and are obligated to do so. This is the essence of redemption, and it was for this purpose that God eliminated the exile. Those who ignored this process were punished, while those who began to implement this cosmic task were rewarded with success. However, the establishment of the State of Israel is far from the end of the process. Its zenith will come with the reconstruction of the Temple and the reinstitution of the sacrifices on the Temple Mount.

It is interesting to note that Elboim's position is close to that of Zevi Hirsch Kalischer, one of the "harbingers of Zionism." Kalischer interpreted the emancipation of the Jews as an event of historical and mythical significance in the context of redemption. He proposed several stages for redemption: the ingathering of a small number of Jews in Israel with the permission of the nations, and the reinstitution of sacrifices on the site of the Temple. These stages, which are to be undertaken by humans, would be complemented by God, according to the principle "mundane actions cause sublime actions." In his book *Drishat Zion*, Kalischer drew on the argument relating to the observance of all 613 commandments, explaining that all the commandments form a single entity, and he who removes or annuls a single commandment also impairs the value of observing the others. Observing the specific commandments relating to the Land of Israel might bring redemption, and if it is possible to observe the commandments relating to the Land, anyone who refrains from doing so is liable to "*Gilgul*" (additional lives of the soul) in order to complete what was lacking.[48] An interesting comparison may be noted here with Akiva Yosef Schlesinger (1837–1922), a member of Neturei Karta who immigrated to the Land of Israel from Hungary and was among the founders of

47 David Hartman, *Leadership in Times of Distress: On the Maimonides' Letters* (Heb.) (Tel Aviv: Hakibbutz Hameuchad, 1985) 111–16.

48 Jacob Katz, "The Historical Figure of Rabbi Zevi Hirsch Kalischer" (Heb.), in *Jewish Nationalism — Essays and Studies* (Jerusalem: Zionist Library, 5739) 285–307.

ultra-Orthodoxy in the 1860s. His unique theological position advocated Jewish nationalism and a return to Zion alongside the strict observance of the commandments. He viewed this process as part of a mundane and gradual messianism intended to establish an Orthodox Utopia in the Land of Israel. His position is so unique that modern-day research has attempted to consider him "the first Zionist."[49] In the light of these examples, it is hardly surprising that on several occasions Elboim compared his movement to the Zionist movement, and even hinted that he was the true Zionist.[50]

A TEMPLE OF FIRE OR A TEMPLE BUILT BY MAN?

A disagreement exists between apocalyptic and naturalistic messianic perceptions over the question of the establishment of the Temple. The miraculous approach, based mainly on the rulings of Rashi, argues that the Temple will descend ready-made from the skies. This is referred to as *Mikdash shel Esh* – a Temple of fire. Adherents of the naturalistic approach prefer an approach that is ostensibly more activist, based mainly upon the writings of Maimonides, according to which it is incumbent on humans to build the Temple. They argue that it is unacceptable to wait for the Temple to be built by itself in a miraculous form, and demand that every individual do all that he or she can to construct the Temple.

Numerous commentators have engaged in theological experimentation in an effort to fuse these two apparently dichotomous perceptions regarding the establishment of the Temple. Rashi's approach to the issue is rooted in the midrashic literature, which notes that the Temple may be built instantaneously – even at night, and even on the Sabbath or a Holy Day. Accordingly, the construction of the Temple is expected to be a miraculous and supernatural event. The Third Temple will descend ready-made from the skies, and it is impossible that it be built by men: "The Temple of the future that we anticipate is constructed and equipped; it will appear and come from the skies, as it is written: 'The Temple of the Lord Your hands will establish.'"[51] This position was supported by the authors of the Toseftot in the tractates *Sukkah* and *Shavuot*. A contrary position is presented in the writings of Maimonides, where it is claimed that the King Messiah will build the Temple: "The King Messiah will rise and restore the Kingdom of David to its former glory as a supreme government, and will build the Temple and ingather the far-flung

49 Michael Silber, "The Beating Jewish Heart in a Foreign Land" (Heb.), *Cathedra* 73 (1994) 84–105.

50 The journal of the Movement for the Establishment of the Temple reprinted the third chapter of Kalischer's *Drishat Zion*, which addresses the proposal to reinstate the sacrifices; See *Gevinei Kruz* issue 4–5 (5761).

51 *Midrash Tanḥuma, Pekudei.*

of Israel and all the laws will return in his days as they were of old, and [they will] offer the sacrifices" (*Mishneh Torah*, *Hilchot Melachim Umilhamoteihem*, 11–12). Maimonides added this commandment to the 613 commandments, as appears in his halakhic work – *Sefer Hamitzvot* (Commandment 20) and in his essay *Hayad Haḥazaka* (Laws of the Temple), and as formulated in his rulings: "It is a positive commandment to make a House for the Lord, a Temple, and to be ready to make sacrifices there and celebrate thereto three times a year."

As long as the Jewish people lived in exile, halakhic debate on this question was relatively theoretical. After the Six Day War in 1967, however, the debate acquired new dimensions that are anything but theoretical. The tension between these two approaches was examined by numerous commentators, and formed the basis for a halakhic debate with practical ramifications.[52] This halakhic tension has also been a source of concern for the Movement for the Establishment of the Temple, as a movement based on the desire to view the miraculous perceptions of redemption as erroneous in halakhic terms. Miraculous halakhic approaches provide legitimacy for messianic passivity, which the movement seeks to overcome. In its efforts to do so, a variety of arguments are adopted.

Yosef Elboim notes that seventy-six positive commandments in the Torah are directly related to the Temple and its holy rituals. Many other commandments, such as those relating to the priesthood or to impurity and purity were indirectly related to the Temple. Accordingly, Elboim proposed a series of deductions based on Jewish beliefs:

1. No person is free to exempt himself from the obligations imposed on the public.

2. No commandment can possibly be observed, if it is dependent solely on supernatural events, or is dependent on the coming of messiah or the visions of a prophet. There is a sequence to the commandments, and it is sometimes possible to observe one commandment only after another commandment or action has been performed. However, Judaism does

52 Several articles examining this subject from a religious perspective have appeared in recent years, a fact that in itself emphasizes the topical nature of the debate. See, for example Mordechai Eliyahu, "The Third Temple – Of Man or of Heaven?" (Heb.), *Conclave for Study of the Laws of Sanctity and the Temple* (5743) 71–76; Shlomo Goren, "The Commandment to Build the Temple in the Present Time" (Heb.) *Iturei Cohanim* 31 (5748) 13–21; Yitzhak Shapiro and Yosef Peli, *El Givat Halevona – In Favor of Ascending the Temple Mount and Demanding the Temple* (Heb.) (Yizhar: own publication, 5759) Shlomo Aviner, *Lemikdashcha tov* (Heb.) (Bet El: Hava Library, 5760).

not permit a situation in which it is not even possible to begin to observe a commandment.

3. The legends of the *Aggadah* cannot exempt the Jew from observing the commandments. There cannot possibly be any contradiction between the content of the *Aggadah* and the *halakhah*, which describes the commandments and obligations required of humans in the present.

4. Halakhic doubts cannot prevent the observance of the commandments. In a time when there is no religious court willing to rule on a *halakhah*, each individual is entitled and obliged to act as a religious court, examining the issue as best he can and reaching his own decision, until a greater authority comes and proves their errors.

5. It is impossible that the entire Jewish people be completely prevented from observing a commandment for "technical" reasons. It is certainly possible that an individual may, under duress, be considered temporarily exempt from performing a commandment, but the public as a whole cannot indefinitely be exempted.

Elboim writes:

> These matters have, for the most part, been tried and tested over centuries of Jewish immigration and settlement in the Land of Israel, and anyone who knows that the Hand of God performed this, and not, God forbid, Satan [as argued by Neturei Karta and the Eda Ḥaredit, *M.I.*] can draw clear conclusions regarding the continuation of the process in the same track, to the Mount of the Lord, the House of the God of Jacob. More importantly still, since there is no inertia in the world, only progress in this direction can avoid retreat, God forbid, from what has already been achieved with regard to the settlement of the Land of Israel.[53]

Israel Ariel offers a complementary exegesis, neutralizing the miraculous dimension of the construction of the Temple, and concentrating on the issue of nullifying a commandment. He considers it paradoxical that in the State of Israel, which is home to rich and dynamic religious life, there has been no public uprising against that fact that such a large number of commandments relating to the Temple has been nullified without the least opposition. Ariel argues:

> We have 613 commandments in the Torah, yet without even thinking about it, we nullify every day two hundred commandments in the

53 Yosef Elboim, "Renewal of the Worship in This Time" (Heb.), *Yibaneh Hamikdash* 34 (5750) 3–5.

> Torah. Two hundred out of 613 commandments are observed within the confines of the Temple Mount. We have national-religious Judaism and we even have "ultra-Orthodox" Judaism; we have holy yeshivot, great rabbis, Kabbalists and righteous men – how can all that be reconciled with the nullification of two hundred commandments of the Torah? With the trampling of the sanctity of Israel in full view of the entire nation, every day and every hour? How have the great rabbis and righteous men seen this desecration for twenty three years and not said a word?[54]

Thus the Movement for the Establishment of the Temple promotes naturalistic messianic approaches that mandate human action as the key to redemption; explains that full redemption depends upon the observance of all 613 commandments, and to this end the Temple must be built. This is the new oath to which God has sworn His people. Those who follow this path are rewarded, while those who deny it are punished. The full observance of the commandments is the fundamental foundation for the messianic process. God will ensure that those who observe His commandments are rewarded, and accordingly there is no need to fear the response of the gentiles.

PIKUAḤ NEFESH AND PEACE

One of the principal arguments raised by the rabbis against the activities of the groups advocating on behalf of the Temple Mount relates to a pragmatic approach rooted in halakhic sources that sanctify life ("and live by them"), and thus prohibit any action that endangers human life. Since activities relating to the Temple are liable to lead to ferment in the Arab world, which will in turn lead to war, riots, and bloodshed, as well as fear of pogroms against Jews living in the Muslim countries, one reason for prohibiting activities on the Temple Mount is the argument of *pikuaḥ nefesh* (the sanctity of life).[55] The *halakhah* states that *pikuaḥ nefesh* overrules all the commandments of the Torah, with the exception of idol-worship, incest, and bloodshed (*Sanhedrin* 74a; *Yoma* 85a).[56]

Spokesmen for the Movement for the Establishment of the Temple respond to this argument by asserting that not only is the construction of the Temple

54 "Two Thousand Years in One Minute – An Interview with Rabbi Israel Ariel" (Heb.), *Or Chozer* 7 (5751), reprinted in full in *Yibaneh Hamikdash* 45 (5751) 17.

55 For example: "We would remain silent in the face of the antics of these agitated youths [the laying of the cornerstone of the Temple by the Temple Mount Faithful movement] did they not carry a torch of flame that is liable to kindle the entire region as in a bonfire. . . . Of this it is written: Do not ascend, for the Lord is not among you, and be not like those thugs who are liable to bring disaster upon the people dwelling in Zion and elsewhere." *Hamodi'a*, 21 Tishrei 5750.

56 There is a rabbinical argument regarding the status of the Land of Israel in this respect and,

in accord with the principal of *pikuaḥ nefesh*, but it is actually this act that will bring peace.

The traditional concept of "peace" differs from its modern usage. In the rabbinical literature, the term "shalom" generally occurs alongside the concept of perfection and absolute justice; accordingly, it is usually depicted in Utopian contexts removed from the realms of mundane history. For the sake of absolute justice, it is sometimes necessary to use the force of coercion.[57] By contrast, the modern concept of peace is generally associated with the principled rejection of the use of force, and with a recognition that compromise is the principal means for the resolution of disputes.[58]

The movement's position on the question of peace reflects these different approaches. In its traditional context, peace is associated with an era of total redemption when there shall be no wars. Accordingly, the era in which the Jewish people will secure redemption will be one in which the Temple stands, the biblical Land of Israel shall be its homeland, and the nations of the world shall be subservient to the Chosen People. In this era, peace will reign. Thus political peace, which entails the division of the Land of Israel and a territorial compromise, even ceding sovereignty over the Temple Mount to the Arabs, stands in contradiction to the traditional vision. Accordingly, the prohibition against the construction of the Temple delays peace, and those who argue according to the principle of *pikuaḥ nefesh* should actually encourage the construction of the Temple. The standing Temple is the best guarantee that there will be no more war, and the observance of the Torah is the safeguard of peace. Accordingly:

> Jewish peace, true peace, is not a successful "divorce settlement" [. . .] As Jews [. . .], we cannot consider democratic values a firm foundation for true peace [. . .] and hence our direct call [to the nations . . .] is: If you truly and honestly desire peace [. . .] then if you would [. . .] recognize the sanctity of this place, the sanctity of this Land to the God of Israel and the spirit of Israel [. . .] then you shall have peace with us.[59]

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in particular, the status of the territories occupied by the State of Israel in the Six Day War. Does holding these territories endanger Israel, and should they therefore be returned according to the principle of *pikuaḥ nefesh*, or is it actually maintaining these territories that grants security to the state, so that *pikuaḥ nefesh* demands they be held? Two articles in the halakhic journal *Tehumin* provide further details regarding this debate: Ovadia Yosef (Heb.), *Tehumin* 10 (5749) 34–47; Shaul Israeli, (Heb.), *Tehumim* 10, 48–61.

57 Aviezer Ravitzky, "Models of Peace in Jewish Thought" (Heb.), in *With God's Knowledge – Studies in the History of Jewish Thought* (Jerusalem: Keter, 1991) 13–33.

58 David Chazoni, "Your Plowshares into Swords: The Lost Biblical Peace" (Heb.), *Techelet* 3 (5758) 78–101.

59 Editorial comment (Heb.), *Yibaneh Hamikdash* 47 (5752) 1–3.

Another key argument used by the movement to refute the claim of *pikuaḥ nefesh* posits that the mere fact of Jewish settlement in the Land of Israel and the defense of its borders and citizens entails a struggle and the loss of life. Accordingly, the laws of *pikuaḥ nefesh* do not apply to such a state of combat. The Temple Mount is no less sacred than the Land of Israel, which everyone agrees must be defended; accordingly, "conquering" the Temple Mount from de facto Arab control cannot be delegitimized by this principle. A further argument raised in this context is that the Jews should not be so fearful of the reaction of the Arab world: once the Arabs see that there is a firm Jewish demand for the Temple Mount, their opposition will wane. The members of the Movement for the Establishment of the Temple quote the example of the Cave of the Patriarchs to support this argument: just as the Arab world came to terms with the Jewish presence in this site, so will be the case on the Temple Mount.[60]

The Movement for the Establishment of the Temple and the Ultra-Orthodox Public

In its publications, the Movement for the Establishment of the Temple rails against ultra-Orthodox passivity. Passivity is the cornerstone of the ultra-Orthodox approach, and the members of the movement identify this characteristic as the principal obstacle they must overcome. Equally, however, they constantly face the question as to the "permissible" borders of innovation, and the point at which innovation becomes sacrilege. Ultra-Orthodox society emerged against the background of the conflict with the modernist movements. The members of the Movement for the Establishment of the Temple come from within this public, and seek to change it from the inside, while accepting its basic principles; were this not the case, they could simply break their ties with this community. Accordingly, they face a serious dilemma: what are the "legitimate" limits of innovation, and at what point does innovation become "reform,"[61] with its overtones of the Reform movement, and hence intolerable and utterly prohibited in accordance with the codes of this community? To what extent can halakhic change occur without its being acknowledged as such?

This dilemma raises a further question: what justifications can be brought to legitimize innovation? Should the justification be based on a vision of the

60 Elitzur Segal, "The Temple and *Pikuaḥ Nefesh*" (Heb.), *Yibaneh Hamikdash* 7 (5748) 2–5.

61 The delicate balance between "innovation" and "reform" is discussed in the studies of Menahem Friedman, "The Chief Rabbinate – An Unsolvable Dilemma" (Heb.), *Medina, Mimshal Veyachasim Beinleumi'im* 3 (1972) 121–22; *Society and Religion: Non-Zionist Orthodoxy in the Land of Israel* (Heb.) (Jerusalem: Yad Yitzhak Ben-Zvi, 5738) 67–70.

future or on illustrations from the past? In other words, should the change be justified as something new, or should it be presented as an ancient value that has been forgotten over the years for various reasons, and is now to be restored, so that the movement is doing no more than to "renew its days as of old?"

These questions become even more complex when we turn to the messianic issue. Redemption is a thing of the future; accordingly, may it be something wondrous and miraculous that extends beyond the limits of human nature? The question arises whether a conservative way of life that negates the innovations brought by the modern world and sanctifies the pre-modern way of life, to the point of glorifying it and viewing it as an ideal, and mandating a bitter struggle against the slightest change,[62] will be able to accept an approach that views redemption as involving man made innovation. Is redemption to be the reconstitution of the past, maintaining the laws of modern-day society, and particularly the observance of the *halakhah*; or is it rather a breaking of social and legal norms, and the abandonment of the commandments at the time of redemption in an era free of sin?

These questions emphasize the profound tension that must be addressed by the members of the movement. By nature, the conservative will prefer to accept miraculous approaches to messianism that view redemption as something that goes beyond the confines of the present world. This conservatism leads him to accept a reality that he cannot personally change, since it is related to supernatural forces and the Divine will. Accordingly, he has no mundane obligation toward redemption, with the exception of his obligations relating solely to his religious behavior. From his perspective, redemption will come from God alone, through His mercy, and in accordance with His wishes and plans, which cannot be predicted, explained, or directed by mortals. Room for Jewish activism is in the field of bringing Jews to repentance. Complete redemption will come only after complete repentance, when the entire Jewish people believes in God and keeps all His commandments as written in the Torah and interpreted in the *halakhah*. The conservative, therefore, prefers to remain within his own four walls and await the miracle that will transfer him from exile to redemption.[63]

A further tension relates to the paradox that advocates of change (such as the members of the Movement for the Establishment of the Temple) seek to

62 Menahem Friedman, "Jewish Zealots: Conservative Versus Innovative," in Silberstein, *Jewish Fundamentalism in Comparative Perspective*, 148–49.

63 For a detailed discussion of the traditional Jewish perceptions of redemption, see Aviezer Ravitzky, *The Revealed End*, 23–59; Ela Balfer, *The Kingdom of God and the State of Israel* (Heb.) (Ramat Gan: Bar-Ilan University Press, 1991) 30–32; Amos Funkenstein, *Maimonides: Nature, History and Messianic Beliefs*, 74–75; Jacob Katz, "Israel and the Messiah," *Commentary* 73 (1982) 34–41.

explain their innovations in ostensibly conservative terms. They argue that their religious innovations are not, in fact, new, but merely the restoration of an ancient past for which the conservative believer prays each day: restoration of the Jewish monarchy, the Sanhedrin, and the sacrifices – the essence of the Second Temple period. Every Orthodox Jew yearns for the return of this era as he reads from his prayer book (in the Eighteen Benedictions, for example, he reads "Restore the worship to Your House, who restores His Divine Presence to Zion"). Presenting his argument as one of zealousness, the innovator calls on this conservative public to be innovative in the name of restoring of past glory and of overcoming fragmented Jewish reality. However, he encounters an impenetrable barrier of arguments negating his approach – conservative claims founded on transcendentalism and miracles.

When the ultra-Orthodox columnist Nathan Zeev Grossman (who writes for *Yated Ne'eman*, the organ of the Degel Hatorah party) sought to delegitimize the approach of the Movement for the Establishment of the Temple, he began his arguments by stating that the movement argues that the great sages of the generation have no answer to the "proofs" presented by the movement; accordingly, the public is urged to follow the movement and make its own independent rulings. Grossman's response to this argument is simple. The public should rely on its leaders' rulings, once they have considered the issue and stated their position. The fact that they ruled as they did is enough, and the halakhic interpretations made by the great sages of each generation must be obeyed. Grossman adds that only those who have observed all the minutiae of the commandments in the Torah are permitted to discuss new commandments, and there can be no doubt that this ideal situation has not yet been reached.

> In these days, when every Jewish home is shrouded in mourning out of sorrow for the destruction of the Temple, it is proper to warn once again against the false visions of various elements who seek to raise *new* ideas that were not conveyed by our forefathers, and which contradict the opinion of halakhic rulers and teachers.[64] [*Emphasis added, M.I.*]

Grossman's position illustrates the challenge faced by the Movement for the Establishment of the Temple in its interaction with the ultra-Orthodox public. Its demand to encourage active public interest in the construction of the Temple was perceived as a religious innovation, and as such was unacceptable. Accordingly, the movement was obliged to argue that its position was not an

64 *Yated Hashavua* (Heb.) (8 Av 5751) 9.

innovation, but a return to the past – a desire to realize ancient longings.

Yonina Talmon, a researcher into religious millenarianism, argues that one axis on which millenarian movements can be typified is that of restoration versus innovation. She notes that, as a general rule, millenarian movements view the present as negative and requiring repair. *Restorative* millenarian movements seek to reinstate a lost age, and perceive the future in pseudo-traditional terms. *Innovative* millenarian movements are usually anti-traditional and iconoclastic, rejecting the religious value system. When the millennium is presented as a regained paradise, the motives of tradition it embodies also become elements of the new order.[65] Talmon's analysis explains the complex situation in which the Movement for the Establishment of the Temple finds itself. The members of the movement claim that their demand is not a religious innovation, but merely the restoration of a perfect past. However, the reality is less simple. In my opinion, this movement meets the definition of an "innovative" movement, since it opposes accepted tradition, breaks the taboo regarding the Temple Mount, and seeks to change the religious value system and the behavioral patterns of Orthodox Judaism. The movement's orientation negates the immediate past and the present in favor of a distant, mythological past. The movement's millennium preserves the accepted religious frameworks, but in a different context. The Orthodox religion of exile – physical or spiritual – is replaced by the ideal of an Orthodox religion in the context of redemption. Accordingly, and despite its iconoclasm and the challenge it poses to religious order, the movement is careful not to place itself outside the framework of *nomos* – religious law.

In their polemical writings, the members of the Movement for the Establishment of the Temple attempt to cope with this complex situation. David Bar Haim, an Orthodox rabbi with ties to Kach, and one of the founders of the movement, wrote an article suggesting solutions for the movement along the axis from restoration to innovation. After three years of activities, Bar Haim analyzes the failure of the movement to spread its message among contemporary Jewry. He writes:

> The long exile we have undergone has caused the people to forget the way of life that was its heritage before the Destruction. This forgetfulness, combined with the force of habit, have made and continue to make anything drawn from our national past alien and new to the public eye. This phenomenon was accentuated during the period when the Hatam Sofer, of blessed memory, waged his wars against Reform Judaism, claiming that "Innovation is prohibited by Torah." All sections of the people

65 Yonina Talmon, "Millenarian Movements," *Archives européennes de sociologie* (1966 [2]) 177–78.

became convinced that the true Judaism is, so to speak, "things will remain the same."

This is the true reason why, when a few of the great Jewish leaders began to pay attention to the idea of settling the Land of Israel, the people, including its greatest sages, would not listen to them. The fact that this "innovation" of settling the Land eventually became the domain of those who cast off the yoke of the commandments merely provided an additional excuse. The basic question was: shall we do something that our fathers did not do? [...]

Accordingly, the true path is this: To begin with small changes which, despite their limited scope and size, can disprove the perception that we cannot change anything of that which we have inherited from our fathers. Any change or innovation can help a little to break down the conventions that delay the completion of our redemption. [...]

Redemption means innovation. The Temple and monarchy mean innovation. This is why Jeremiah ended his book of lamentations with the words "*Renew our days as of old*" (Lamentations 4:21). For the secret of redemption is for us to renew our days by ourselves, "as in the former years. (Malachi 3:4). [*Emphases added, M.I.*][66]

Bar Haim offers a stark prescription for the approach that should be adopted by the movement. His fellow members, and particularly those who came from within the ultra-Orthodox community, did not dare to express themselves in such an overt and blatant manner, preferring an alternative fabric of arguments based mainly on the claim regarding the need to by-pass the "great" rabbis.

ATTEMPTS TO BREAK THE LEGITIMACY BARRIER

Unsurprisingly, the task undertaken by the Movement for the Establishment of the Temple – to convince the ultra-Orthodox public of its ideas – encountered a solid wall of opposition. By its very nature, Orthodox Judaism has always negated the concept of progress or change in religious matters.[67] Accordingly, the movement raised a series of arguments relating to the question of religious authority. However, the position presented on this question was confused and indecisive. The movement was forced to address a fundamental and difficult challenge: the dilemma how to face the halakhic world. Should their aim be to reform this world from within, or should they remove themselves and establish a separate halakhic mechanism? Should existing halakhic

66 David Bar Haim, "What is the True Path?" (Heb.), *Yibaneh Hamkidash* 37 (5750) 32–35.

67 Jacob Katz, "Orthodoxy as a Response to the Departure from the Ghetto and the Reform Movement" (Heb.) in *Halacha Bametzar* (Jerusalem: Magnes, 5752) 9–20.

law be accepted or broken? Should they obey the great sages and teachers of the generation and attempt to convince them, or should they simply rebel against their authority? Perhaps the solution to the problem of authority lay in dismantling the institution of the rabbinate and rebuilding it in the new, messianic spirit.

These key dilemmas in the life of the movement have aroused exhaustive debate and formed the basis for serious disagreements. It was not only the members of the movement themselves who faced such dilemmas. The ultra-Orthodox leadership was also forced to consider whether it could continue to accept the members of the movement within its midst; at times, as already noted, the members of the movement suffered physical attacks against themselves and their families.

In addressing the dilemmas presented above, the simplest course available is to argue that their approach is acceptable and legitimate. This argument appears repeatedly in the movement's publications; the members attempt to present their approach as acceptable to rabbis, halakhic rulers, and leaders. The problem is that rabbinical approval was not stated in public. Accordingly, the members of the movement took pains to publicize this support, so that the public could see that their approach was acceptable:

> We are well aware that one of the two chief rabbis feels that he cannot now take any action for the sake of the Mount of the House of the Lord, although before his appointment he was sympathetic to this cause.[68]
>
> My uncle once went to Rabbi Eliashiv, long may he live,[69] and pretended that he was in the civil guard and had been stationed on the Temple Mount, and asked how he could perform his duty. During a halakhic exchange, he instructed him exactly which area [of the Mount] was permitted and where required purification and was prohibited. Then my uncle published these comments, and he received a warning from the rabbi's house that he should not do this, since he had not received permission, and they denied the entire matter. [. . .]
>
> [Question]: But there are so many rabbis, how can it be that not even one leading rabbi can openly join your position?
>
> [Answer] A. Because that rabbi knows that if he joins us he will not be a leading rabbi any more.
>
> B. When I go to ask a rabbi a question, I distinguish between the halakhic side and the political side. On the halakhic side, he determines, and they

68 Oded Shafir, "Guardians of the City or Destroyers of the City" (Heb.), *Yibaneh Hamikdash* 7 (5748) 8.

69 One of the leaders of the Lithuanian section of the ultra-Orthodox community. Rabbi Eliashiv was chosen to head the community after the death of Rabbi Eliezer Shach in 2002.

> really do not find any serious obstacle there. [. . .] On the political side, where every Jew is his own master, the rabbis do not determine things.[70]

The members of the movement eagerly published articles by figures who were not involved in the movement, claiming that there were rabbis who permitted Jews to enter the Temple Mount, but refrained from announcing this publicly. One such article, written by Rabbi Yehuda Shaviv, a senior teacher at the Har Etzion yeshiva in Gush Etzion, appeared in *Nekudah*, the mouthpiece of the settlers in Judea, Samaria and the Gaza Strip. Shaviv raised the demand to "allow what is permitted" – to permit entry to the Temple Mount for the purpose of prayer, and thus prevent the Israeli governments from transferring sovereignty over the Mount to the PLO as part of the Oslo accords. Shaviv states that Rabbi Eliashiv personally permitted him to enter the Temple Mount as a guard during reserve duty following the occupation of the site in 1967.[71]

An additional argument raised by the movement in order to solve the problem of rabbinical approval for its approach is to address the general public directly, without reference to the leaders. The rationale is that the leaders will subsequently have no alternative but to assent to public demand. This approach seeks to ensure that the Movement for the Establishment of the Temple remains within the general consensus. From the outset, the movement decided to attempt to convince individuals and to address the general public, in the hope that if the "man on the street" began to demand the Temple Mount, the rabbis and great leaders of the generation[72] would be obliged to relate to the issue and change their opinion. Accordingly, the movement adopted a revolutionary and provocative position that has never enjoyed currency in the ultra-Orthodox community, arguing that "the great ones should listen to the little ones" – i.e., the ultra-Orthodox leadership should listen to public

70 Dov Elboim (Heb.), *Yibaneh Hamikdash* 30 (5750) 29–30. This article was written in the form of the record of a discussion between Elboim and "a famous rabbi from Bnei Brak." It is interesting to note that Elboim presents a line of argument that is similar to that which emerged in the Mizrachi movement, with a distinction between religious-rabbinical leadership and political leadership, whereby the political leaders engaged in "limited consultation" with the rabbis. On this arrangement, see Asher Cohen, *The Tallit and the Flag – Religious Zionism and the Vision of the Torah State in the Early Years of the State* (Heb.) (Jerusalem: Ben Zvi Institute, 1998) 90.

71 Yehudah Shaviv, "The Double Destruction" (Heb.), *Nekudah* 173 (Kislev 5744) 29, reprinted in full in *Yibaneh Hamikdash* 75 (5754) 9.

72 On the status of the "great leaders of the generation" (*gedolei hador*), see Menahem Friedman, *Ultra-Orthodox Society: Sources, Trends and Processes* (Heb.) (Jerusalem: Jerusalem Institute for Israel Studies, 1991) 40–51, 104–14; Binyamin Baron, *The Opinion of the Torah and Faith in the Sages in Ultra-Orthodox Thought* (Heb.) (Master's thesis, Hebrew Univ. 1996).

opinion. The members of the movement who wrote in *Yibaneh Hamikdash* raised numerous arguments in support of this principle:

> The rabbis – and the more senior they are, the truer this is – can hardly cope with dealing with pressing problems, and cannot possibly find time to consider an issue that is presently no more than a distant vision. [. . .] Accordingly, the only way is for this matter to begin with ordinary people, and only after some reasonable progress is made will it be possible to attract the attention of the great leaders.[73]
>
> In our opinion, the behavior of the leaders of the generation in all matters relating to the "Ten Holinesses," from the holiness of the Land of Israel to the Holiness of the Holy of Holies, is a weak leadership. [. . .] A weakness that diverts the entire matter of the Land of Israel, and the House of the Lord at its center, into a celestial matter [. . .] This weakness can only be combated by action from the grassroots, which will leave the leaders able to do no more than give a priori consent.[74]

Avigdor Elboim – a Belzer Hassid and father of Yosef Elboim – raised another, contradictory argument, in an article written under the name of Baruch Ben Yosef, director of the Temple Mount yeshiva, a former Kach activist and one of the leading members of the Movement for the Establishment of the Temple. In an article published in the mouthpiece of the movement, Avigdor Elboim argued that the movement should separate itself from mainstream Orthodoxy. This article was published after the Rabin government decided (in 1994) to adopt a stricter attitude toward members of the movement who attempted to pray on the Temple Mount, after which, such activities became almost impossible. This article attracted angry replies from the regular writers in the journal, as well as numerous letters from readers. Elboim's forthright tone provoked debate within the movement, accentuating its position regarding the authority of the great rabbis of the generation. A. Elboim attacked various rabbinical bodies that advocate messianic activism but do not demand the establishment of the Temple; Rabbis Shlomo Aviner and Zvi Tau of the Mercaz Harav yeshiva, for rejecting the idea of prayers on the Mount; and the members of Kahane Chai (formerly Kach) under the leadership of Binyamin Zeev Kahane, whom he accused of moderating their style in order to curry favor with Gush Emunim. Avigdor Elboim wrote:

73 Elitzur Segal, "The Path of the Movement for the Establishment of the Temple" (Heb.), *Yibaneh Hamikdash* 27 (5750) 35.

74 Yechiel Etz-Shemen [Yosef Elboim], (Heb.), *Yibaneh Hamikdash* 73 (5754) 9–10.

> On the matter of the establishment of the Temple, we should not recognize the authority of the rabbinate and the Beit Din Zedek. This is unkosher and impure, this is Ahab Ben Omri and Jeroboam Ben Navat. [. . .] Shame on the Beit Din Zedek, which denies the commandment to build the Temple; shame on the Rabbinate, which denies the building of the Temple; shame on the Mercaz Harav yeshiva, which denies the building of the Temple; shame on the *Yeshivot Hesder*, which deny the commandment of building the Temple; shame on Ateret Cohanim Yeshiva, which denies the commandment of building the Temple; shame on Gush Emunim, which denies the commandment of building the Temple – one must not rely on their slaughtering of meat; one must not rely on their Kashrut; one must not include them in the quorum for prayer – for they are Sadducees in every respect.[75]

Avigdor Elboim's claim that those who preach messianic activism (such as Chabad, Mercaz Harav, Kach) are acting hypocritically, and accordingly should be excluded from the Orthodox public, effectively implies that he, too, is excluded therefrom. It is hard to accept that everyone is to be excluded apart from oneself. In the sociological literature, this phenomenon is known as "basic dualism," whereby a messianic movement separates itself from the remainder of the public, which it utterly rejects, and anticipates that it alone will witness redemption, which the non-believers will not be privileged to see.[76] Hava Lazarus-Yafeh further explained this phenomenon by noting that fundamentalists form their own counter-societies that are separate from and opposed to modern Western society, and which ostensibly cling to the "true" tradition. From their perspective, religious institutions that fail to follow their path are no better than "infidels," and must repent.[77]

This opinion was not favorably received in the movement; readers' letters even threatened cancellation of membership in the movement and their subscription to the journal. Such a public stance as Elboim's was evidently too radical. The activists of the Movement sought to achieve change from within, not to separate themselves from the community. The dilemma they faced, whereby, on the one hand, they rejected existing halakhic frameworks, while, on the other, they were reluctant to remove themselves from these frameworks, paradoxically led to the attempt to reestablish the Sanhedrin – an attempt led by members of the movement. This solution was reached as a compromise

75 Avigdor Elboim (published in the name of Baruch Ben Yosef), "If at Least They Dwelt in the Land of Israel and Shouted Messiah" (Heb.), *Yibaneh Hamikdash* 77 (5754) 7–8.

76 Talmon, *Millenarian Movements*, 167–8.

77 Hava Lazarus-Yafe, *Contemporary Fundamentalism*, 45–51.

position within the movement. The rationale was that the Sanhedrin, as an activist body with the authority to introduce religious reforms and accepted by all sections of Orthodoxy, would be able to solve their difficulty.[78]

Before establishing the Sanhedrin, however, the members of the movement sought to propose a further solution to the problem of legitimacy. Since the members of the movement came from the Orthodox world, which accepts innovations only if these are rooted in halakhic decisions based on tradition, and form part of the existing sequence of rulings and laws, the movement decided to establish its own religious court (Beit Din Zedek). The rationale for this step was that:

> [Since] the "great leaders and righteous men" of the present generation show no interest in the Temple Mount, we lesser mortals attend to a commandment that is left unattended. Since the obligation to build the Temple is a commandment from the Torah ("Make me a sanctuary that I might dwell therein" [Exod 25:8]), and particularly in modern times, when we are independent, we are obliged to perform all that is written in Moses' Law. Any type of worship that may be performed, although the Temple is destroyed, must be undertaken.[79]

Since the members of the movement consider themselves bound by the *ha lakhah*, the establishment of a court that makes its rulings in a halakhic manner legitimizes their actions. Ostensibly, the establishment of a religious court obviates the fear that their actions might be considered tantamount to breaking the confines of *halakhah*. Moreover, the members of the court itself emphasize that "naturally, once God's people insist, and the ordination and Sanhedrin are restored, and the great religious court that issues instructions to Israel is revived – all the laws relating to the Temple will be discussed and clarified there."[80]

However, the establishment of such a self-appointed religious court, which engages in active initiatives and introduces laws, might actually represent the very opposite of "halakhic commitment," and might have the effect of removing the movement from the limits of consensus. The capacity to pass its own laws might amount to anti-nomianism and carry the movement beyond the

78 Baruch Ben Yosef writes: "Those who wish to advance the issue of the Temple Mount and the Temple must stop attacking and defending rabbis. Instead, they should act to establish a Sanhedrin of 71 religious judges. [...] The re-establishment of the Sanhedrin is the most practical and positive step toward the establishment of the Jewish state and the Kingdom of David. They will have the power to nullify all the lamentable practices of exile, and to rule appropriate *halakhah* for the Land of Israel and for normal Jewish life..." (Heb.), *Yibaneh Hamikdash* 81 (5754) 28.

79 *Yibaneh Hamikdash* 16 (5749) 2.

80 *Yibaneh Hamikdash* 23 (5750) 2.

limits of what is considered legitimate in its constituency. The movement was aware of this danger.

The movement addressed issues to its Beit Din on three occasions. Twice the court approved the movement's innovative intentions, while on the third occasion these were rejected. The movement did not turn to the court again, partly because it realized that this was a dangerous tool; if used to excess, it might lead the movement outside the Orthodox camp – something the members did not desire.

The first ruling of the Beit Din stated that it was possible to carry out the sacrifices despite the atrophy of the biblical class divisions (priests, Levites and Israelites) in modern Jewry. The sacrifices in the Temple were carried out by the priests, and since the destruction, the priesthood is no longer strictly maintained, and it is impossible to know for certain who is or is not a priest. The movement's Beit Din ruled that this does not prevent the possibility of carrying out sacrifices. The second ruling stated that since there is no longer a priestly class in Jewry, any Jew may carry out the sacrifices on the Temple Mount.[81]

It was the third ruling that tested the direction of the entire movement. Baruch Ben-Yosef, a former member of the Jewish Defense League and a follower of Meir Kahane, asked the court to rule that the route walked on the Temple Mount should include the entire site. Ben-Yosef justified his claim on the grounds of "occupation." As already noted, the ruling for generations had been that Jews must not enter the Temple Mount in order to avoid the risk of entering the *Chayil* area, which must not be entered by anybody except the high priest. The penalty for entering the area was *Karet* (the Divinely-imposed death sentence). However, it is permissible to enter the area in order to occupy it, and such permission was indeed given retroactively to the IDF soldiers who entered the area during the Six Day War. Ben-Yosef claimed that

> Due to the opposition of the Ishmaelites to Jews ascending the Mount, and due to the police order supporting the Arab side, every Jew is obliged to go up in order to nullify the desecration of God's name that has been created. Based on the above-mentioned behavior of the Arabs, it is evident to me that this matter relates to the law of occupation. Accordingly, even those who argue that there is presently a penalty of *Karet* against those who enter areas prohibited to impure persons must agree that it is an obligation to go up due to the duty of occupation and the desecration of God's name.[82]

81 *Yibaneh Hamikdash* 27 (5750) 2–5.

82 *Yibaneh Hamikdash* 57 (5752) 16. The argument here is based on a talmudic saying that "occupation" implies a physical presence in a place and public familiarity with this presence. "How have you inherited? By presence" (*Kiddushin* 26).

Before presenting the argument that emerged, it is important to clarify the movement's position regarding prayer on the Temple Mount. The followers of the movement shared the belief that the Temple has to be built by the entire public; but in a situation in which the public is not willing to rebuild the Temple, each individual has to do all he can to build it. To this end, they mandated prayer on the site. While they admitted that they did not know the location of the *Chayil* – the Holy of Holies – there were certain parts of the site where the *Chayil* could not possibly be, namely the additional areas constructed by Herod. They ruled that it was permissible, and indeed desirable, to enter these areas. As a precautionary measure, the members of the movement take additional halakhic steps before entering the area, including immersing in a mikveh and wearing cloth shoes. Prayer on the Temple Mount strengthens the longing for the Temple, and is therefore desirable. The activists believe that reinforcing attachment to the Temple will also encourage the general public to take active steps.[83]

As mentioned above, the discussion in the movement's Beit Din Zedek led to a fierce argument. Baruch Ben-Yosef argued that anxious to avoid entering prohibited areas on the Temple Mount (i.e., areas other than the additions built by Herod), the movement had adopted a fixed route for its visits to the site, passing through areas that they believed were free from the possibility of prohibition. When Ben-Yosef attempted on one occasion to change his route, the police prevented him from doing so. He interpreted this as implying that the adoption of a fixed route by the movement meant that they might be seen to be demanding only those areas in which they walked, rather than the entire Mount. In halakhic terms, Ben-Yosef based his case on an interpretation of a ruling by Nachmanides stating that the occupation of the Land of Israel nullifies prohibitions from the Torah, arguing that this ruling should be extrapolated in the case of the Temple Mount. After extensive discussion,[84] the Beit Din ruled as follows:

> Despite the miserable situation, the court saw no possibility of permitting general entry to every place on the Mount, since this is subject to changes in reality and an evaluation of the situation. Equally, it is inappropriate to prohibit entry into the holy areas, since it is certainly possible that the reality changes from day to day and from one person to another.

83 Elitzur Segal, "Sovereignty on the Temple Mount" (Heb.), *Yibaneh Hamikdash* 5 (5748) 5–6.

84 The position of Ben-Yosef was supported by Mordechai David Ackerman, an Orthodox rabbi from the Lithuanian stream and a member of the movement. Yosef Rotstein of the Gur Hassidic sect completely rejected Ben-Yosef's arguments, which he believed were motivated by political considerations and intended solely for publicity. Eliezer Rokach, a Belzer hassid, stated that "we must do things that lead to the goal, and not cross over every limit, since this might push

> Accordingly, it was decided *to leave the decision to those in the field*, who are thoroughly aware of the state of affairs on a daily basis, and can guide their fellows who ascend *as to the situation at that time.*
>
> The court is aware of the various methods that exist regarding the [historic] position of the Temple [. . .] Nevertheless, it is the court's opinion that as long as no precise study has been undertaken within the Temple Mount, and, particularly, extensive archeological excavations, it is inappropriate to change the method adopted by the Radbaz, which identifies the "*Sakra*" with the Foundation Stone. [. . .] *Accordingly, the old route remains valid and unchanged.* [*Emphasis in original*][85]

In effect, the movement's religious court did not reach a determination, choosing instead to permit every member to act as he saw fit on this matter. In practical terms, the court permitted entry into all parts of the Temple Mount, but without stating this in express terms, and while adding a formal reservation. The court realized the danger that it would exceed the limits it had set itself, and that it could not be seen to allow everything. Even in the Movement for the Establishment of the Temple, innovation has its limits, as this ruling made clear to the members. In order not to deviate beyond the basic framework of Orthodox society (within which they already found themselves on the margins), it was important to maintain taboos and laws. As mentioned above, the movement's court was not used again after this episode.

The Oslo Process and the Movement for the Establishment of The Temple

The underlying ideology of the Movement for the Establishment of the Temple is based on the perception that historical developments form part of a Divine plan for this world, with the objective of bringing redemption. Redemption is interpreted as the establishment of an independent political entity that acts in accordance with Jewish law, reinstating the sacrifices on the Temple Mount and rebuilding the Temple. This approach is based on an interpretation of Maimonides' rulings regarding the ideal messianic society, according to which redemption is the complete worship of God through observance of all 613 commandments – a goal that can only be met if the Temple is rebuilt. The exile was ended in order to permit the Chosen People to observe all the commandments in its own land. Those who ignored this process were punished, while those who began to implement this cosmic task were rewarded.

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us backwards." The entire debate was published (Heb.), *Yibaneh Hamikdash* 59 (5753) 8–16, 22.

85 *Yibaneh Hamikdash*, 64 (5753) 3–5.

However, the establishment of the State of Israel is far from the end of the process. Its zenith will come with the reconstruction of the Temple and the reinstitution of the sacrifices on the Temple Mount.

According to the movement's perspective, every human action entails reward and punishment. The Oslo process, which culminates in the partition of the Land of Israel between two peoples, including a territorial compromise and some form of Arab sovereignty on the Temple Mount, constituted a horrifying disaster for the movement.[86]

According to this reading of history, the refusal of the Jewish people to leave exile for redemption following the Balfour Declaration led to the horrors of the Holocaust. What, then, would be the theological ramifications of the decision by the Jewish people publicly to abandon their aspiration to rebuild the Temple? What would be the cosmic results of the abandonment of the process of redemption?

Yosef Elboim's answer was stark and simple. Abandoning the Temple Mount was tantamount to another Holocaust and to annihilation. The ongoing willingness of the public to refrain from religious worship on the Temple Mount had led, in cosmic terms, to the partition of the Land of Israel, and the transfer of sovereignty on the site to Arab rule would lead to the elimination of the State of Israel. On the eve of Rosh Hashanah 5754 (1994), an editorial comment in *Yibaneh Hamikdash* summarized the process in bleak terms:

> When we willingly gave Islam the keys to the Temple Mount, it was ruled that we would have to part from Sinai – the southern Land of Israel. When we prohibited Jews from praying on the Temple Mount, we were punished by the withdrawal from South Lebanon – the northern Land of Israel. When we equipped the Waqf with means of communication and control on the Temple Mount, we saw "autonomy" (the loss of control) in the center of the Land of Israel, and when we finally gave up all hope of building the House of God (our Temple) on the Temple Mount, we were condemned to the final renunciation of our national home.[87]

86 The idea of allowing the Arabs to control the Temple Mount was first raised during the peace negotiations between Israel and Egypt. Menachem Begin, the Israeli prime minister at the time, proposed that a Vatican-type model be applied to the Temple Mount, providing a special legal status for functionaries on the site (the Waqf). At the Camp David conference (July 11–24, 2000), Israel suggested several models for Palestinian management of the site, including waiving Israeli sovereignty. All the proposals were rejected by the Palestinians. For details, see Menachem Klein, "The Temple Mount: A Challenge, Threat and Promise on the Path to a Political Agreement" (Heb.), in Yitzhak Ritter, ed., *Sovereignty of God and Man – Sanctity and Political Centrality on the Temple Mount* (Jerusalem: Jerusalem Institute of Israel Studies, 2001) 269–96.

87 *Yibaneh Hamikdash* 71 (5754) 2.

After the emergence of the Oslo Accords, the Movement for the Establishment of the Temple began to strengthen the Jewish presence on the Temple Mount, recruiting new members to pray on the site, despite the stricter approach taken by the Israeli governments toward such activities. During this period, the movement also began to approach the supporters of Gush Emunim – an Orthodox segment of the population to which it was closer in ideological terms. The contacts with this group led to a dramatic increase in the number of participants in the movement's activities. For example, the "Temple Feasts" held annually to raise funds and encourage social contacts in the group were now attended by between 500 and 1000 people.[88]

The greatest success of the movement came in 1996, during the high point of the campaign against the Oslo process among the settlers, when the Committee of Yesha Rabbis, a body uniting the rabbis from Judea, Samaria and Gaza (hense the term "Yesha"), most of whose members are identified with Gush Emunim and the Mercaz Harav yeshiva, issued a radical ruling calling on all those who believe that it is permissible to ascend the Temple Mount "to go up themselves, and to guide their congregants on how to go up in accordance with all the halakhic restrictions."[89] The ruling noted that the decision was made due to "facts being established on the ground by the Arabs." The argument behind the ruling was that the absence of a Jewish presence on the Temple Mount, due to the prohibition to enter the site, had led Israeli governments to see the site as something that could easily be abandoned. Accordingly, if the masses began to ascend the Mount and pray there, it would be harder for the Israeli governments to transfer sovereignty to the Palestinian Authority. The Yesha rabbis announced their ruling at the Temple Feast, published it in *Yibaneh Hamikdash*, and noted that it had been made after consultation with "the rabbis of the Movement for the Establishment of the Temple." This ruling was reiterated on July 17, 2001, at a joint meeting of the Committee of Yesha Rabbis and members of the Movement for the Establishment of the Temple.

The ruling by the Yesha rabbis may, I believe, be considered the zenith of the activities of the Movement for the Establishment of the Temple, since it showed that the goal of changing Orthodox attitudes on the question of the Temple Mount was attainable. Fear of the loss of Jewish sovereignty on the Temple Mount led a committee of Orthodox rabbis to change a halakhic ruling that had been considered a complete taboo for centuries. The ruling suggests that the movement's objective of changing religious perception relating to the Temple Mount can strike roots, given particular political circumstances.

88 Further information about the Temple Feasts may be found in: Amnon Ramon, "Beyond the Western Wall: The Attitude to the Temple Mount on the Part of the State of Israel and Sectors of the Jewish Public (1967–1999)" (Heb.), in Ritter, *Sovereignty of God and Man*, 127–30.

89 Decision of the Committee of Yesha Rabbis (Heb.), 18 Shvat 5756.

The closure of the Temple Mount to Jews in September 2000, following the outbreak of the Al-Aqsa Intifada, came as a severe blow to the movement. For a period of three years, the members were unable to enter the site or pray on the Temple Mount. This situation eroded the movement, and several key members began to direct their activities toward other groups and issues. The movement effectively ceased to function during the period, although it continued to publish a limited and irregular version of its journal.

During the same period, however, the ideas promoted by the Movement for the Establishment of the Temple began to find increasing favor among Religious Zionist rabbis. The ruling by the Yesha rabbis sparked an open debate on the question of prayers on the Temple Mount. A subject that had been a taboo became a burning issue, and during the three years when Jews were not permitted to enter the site (2000–2003), a number of religious publications appeared accentuating the debate over the authorization of prayers on the Temple Mount.[90] The late spiritual leader of Gush Emunim, Rabbi Zvi Yehudah Hacohen Kook, had prohibited Jews from entering the Temple Mount. His associates and students, Shlomo Aviner and Zvi Tau, continued his approach, and to this day forbid entry to the site. Among other religious authorities in Gush Emunim, however, there is growing support for the opinion that entry to the Temple Mount should be permitted. Under the influence of these trends, MK Uri Ariel, the unofficial representative of the Yesha Council[91] in the Knesset and its leader prior to his election to the Knesset, tabled a proposed law seeking to regulate prayer by Jews on the Temple Mount. It is hard to imagine that, even a few years earlier, a Member of Knesset identified with Gush Emunim would have raised such a proposal.

A survey commissioned in 2002 by the Reform movement's Israel Religious Action Center showed that 42 percent of the public favor permitting Jews to pray on the Temple Mount, while 55 percent were opposed. The same proportions apply in the ultra-Orthodox and traditional sectors. As for the question "Do you favor the establishment of the Third Temple?" 53 percent answered in the affirmative and 37 percent in the negative.

Since the reopening of the Temple Mount to Jews in November 2003, dramatic developments have occurred with regard to prayer on the site. During the first three months after the reopening, some 4,000 Jews have prayed on

90 See *Going Up in Sanctity – A Journal for Matters of the Temple and its Sanctities* (Heb.), vols. 1–8 (5760–63); Yehudah Shaviv and Israel Rosen, *Come and Let Us Ascend – A Collection of Articles and Manifestos on the Subject of the Temple Mount in Modern Times* (Heb.) (Gush Etzion: Zomet, 5763); Shlomo Aviner, *Maimonides' Laws of Messiah* (Heb.) (Jerusalem: Hava Library, 5763); *Nekudah* (Heb.), 242 (May 2001) 17–29; Hillel Weiss, *The King's Path* (Heb.) (Tel-Aviv: Ariel Institute, 5763).

91 The umbrella organization of settlements in "Yesha" – Judea, Samaria and the Gaza Strip.

the site.[92] Almost every day, Jewish groups – sometimes numbering hundreds – arrive to pray on the Mount. This outburst of enthusiasm has been led by key religious and political authorities within the Religious Zionist movement, and not only from its more extreme fringes. Thus, for example, Dov Lior, Nachum Rabinowitz, Shabtai Rappoport, Yuval Sharlo, Israel Rosen, and Shlomo Riskin have all prayed on the Mount. Other figures who have done the same include journalist Haggai Huberman and public figures Zvi Katzover and Haggi Ben Artzi.

It would appear that the strength of the prohibition against Jews entering the Temple Mount, or praying on the site, has weakened, and that there is increasing support for such actions among widening circles. The Movement for the Establishment of the Temple has played an important role in this change. This case study shows how a political process – the Oslo accords – influenced religious processes and perceptions that had previously been unchallenged. The fear that the Temple Mount would be transferred to the Arabs, following the Oslo process, legitimized changes in Jewish religious law that had stood for centuries, and revitalized the messianic vision of the establishment of the Temple.

I shall close with the "prophecy" of the historian Jacob Katz. Katz argued that quasi-messianic Zionist rhetoric encouraged and promoted the identification of the Zionist endeavor as a messianic process, providing the energy for the establishment of the State of Israel. However, "the messianic tradition does not contain a blueprint for the conduct of the state. Upon the realization of this fact the future of Israel may depend."[93]

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92 *Hatzofeh* (Heb.), 2 Feb. 2004.

93 Jacob Katz, "Orthodoxy in Historical Perspective," *Studies in Contemporary Jewry* 2 (1986) 17.

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